

West Virginia Legislature

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HOUSE of DELEGATES

Eighty-Fifth Legislature
First Regular Session

Held at Charleston
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February 11, 2021
SECOND DAY

Thursday, February 11, 2021

SECOND DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Wednesday, February 10, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Resolutions Introduced

Delegate Linville offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 4 - "Requesting the Division of Highways name bridge number 06-049/00-008.51 (06A239), locally known as the Decker Adkins Bridge, carrying County Road 49 over Madison Creek in Cabell County, the 'U. S. Army PFC Herman H. Lucas Memorial Bridge'."

Whereas, Herman H. Lucas was born on June 24th, 1920, in Salt Rock, in Cabell County, West Virginia to Garland and Rosetta Lucas and he grew up helping to tend his family's farm near Madison Creek; and

Whereas, Herman H. Lucas enlisted in the United States Army in 1941, joining the 147th Infantry, attained the rank of Private First Class, and he was assigned to the Pacific Theater when World War II began; and

Whereas, PFC Lucas served valiantly in several major conflicts in the Pacific Theater, including Guadalcanal where he was wounded by mortar fire, the Philippines, and at Iwo Jima; and

Whereas, During the Battle of Iwo Jima, which PFC Lucas later described as "inhumane...of all the fighting and dying I've seen, this is the worst," he took over his platoon upon the death of their squad leader when they were assigned a special mission to take out a heavily fortified position; this assignment took a horrible toll upon the platoon with intense fighting leaving them cut off and without food or water for three days and the loss 27 of the 29 men in the unit; and

Whereas, PFC Lucas was awarded the Purple Heart medal for his injuries, and the Bronze Star for his heroic service in combat and he also was decorated with the Asiatic Pacific Theater Ribbon, the American Defense Service Medal, the Good Conduct Medal, and the World War II Victory Medal; and

Whereas, Following the conclusion of World War II, PFC Lucas returned to West Virginia where he married Thelma Virginia Sloan and they raised three children, Elizabeth, Harold, and David Lucas, and eventually they had five grandchildren - Margaret, Christopher, Jared, Trenton, and Jenna; and

Whereas, Herman L. Lucas became an ordained minister and performed in various gospel groups, preaching and performing throughout southern West Virginia for over 50 years; and

Whereas, Herman L. Lucas passed away at the age of 92 at the home of his son, Harold, in Kentucky on December 31, 2012; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC Herman L. Lucas and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 06-049/00-008.51 (06A239), locally known as the Decker Adkins Bridge, carrying County Road 49 over Madison Creek in Cabell County, the "U. S. Army PFC Herman H. Lucas 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. Army PFC Herman H. Lucas Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

On motions for leave, Joint Resolutions were introduced, read by their titles and severally referred as follows:

By Delegates Kimble, Hanna, J. Jeffries, Hamrick, Horst, Smith, Clark, Espinosa, Ellington, Keaton and Bruce:

H. J. R. 1 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section 2, article 12 thereof, relating to education and the supervision of free schools; clarifying that the general supervisory authority of the State Board of Education is subject to legislative enactments; allowing the board to promulgate rules; requiring rules to be submitted to the Legislature for its review and approval, amendment, or rejection; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on Education then the Judiciary.

By Delegates Anderson, L. Pack, Westfall, Howell, Kimble, Fast, D. Kelly, J. Jeffries, Pritt, Horst and Phillips:

H. J. R. 2 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section nine, article IV thereof, relating to the impeachment of officials; providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate; specifying that a judgment rendered by the Senate following an impeachment trial is not reviewable by any court of this state; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on the Judiciary.

By Delegates Nestor, Mallow, Forsht, Wamsley, Reynolds, Clark, Barnhart, Kimes, Horst, Holstein and Reed:

H. J. R. 3 - "Proposing an amendment to the Constitution of the State of West Virginia amending article X thereof by adding thereto a new section, designated one-d, relating to ad valorem property taxation; the Legislature shall have exclusive authority to establish the valuation, assessment value and classification of property in this state for purposes of ad valorem taxation, to fix maximum rates for the taxation thereof by the levying bodies, and to provide for the exemption thereof from taxation, fully or in part, all to be determined as provided by general law; providing that this legislative authority is effective beginning on and after January 1, 2023; preserving existing exemptions from taxation

where provided by constitution; numbering and designating such proposed amendment; authorizing a special election on the ratification or rejection of the amendment to take place _____; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Finance then the Judiciary.

By Delegate Bates:

H. J. R. 4 - “Proposing an amendment to the Constitution of the State of West Virginia, amending article IV thereof by adding thereto a new section, designated section thirteen, relating to the arrangement of congressional, senatorial and delegate districts after census by creating a State Apportionment Commission; designating for appointment, terms of office, duties of and eligibility for commissioners; establishing process for commission to develop plans; providing that State Apportionment Commission must submit redistricting plans to each house; providing that each house may reject its plan by a two-thirds vote of the members elected; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Fleischauer, Boggs, Pethel and Hansen:

H. J. R. 5 - “Proposing an amendment to the Constitution of the State of West Virginia, amending article IV thereof, by adding thereto a new section, designated section thirteen, relating to the arrangement of Congressional, Senatorial and Delegate Districts after census by creating a State Apportionment Commission; designating for appointment, terms of office, duties of and eligibility for commissioners; establishing process for Commission to develop plans; providing that State Apportionment Commission must submit redistricting plans to each house; providing that each house may reject its plan by a two-thirds vote of the members elected; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of such proposed amendments”; to the Committee on Political Subdivisions then the Judiciary.

By Delegate Doyle:

H. J. R. 6 - “Proposing an amendment to the Constitution of the State of West Virginia amending section fourteen, article VII thereof, relating to requiring a two-thirds vote to override a veto by the Governor; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on the Judiciary.

By Delegate J. Jeffries:

H. J. R. 7 - “Proposing an amendment to the Constitution of the State of West Virginia amending article VI thereof by adding thereto a new section, designated §32A, relating to the vote needed to raise a tax or increase a fee; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Finance then the Judiciary.

By Delegates Linville and Rohrbach:

H. J. R. 8 - “Proposing an amendment to the Constitution of the State of West Virginia, repealing article VI, section 56 thereof; and amending section 52, article VI thereof, giving the Legislature discretion in appropriating revenue generated from motor vehicle registrations and nongame wildlife motor vehicle registration plates; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegate McGeehan:

H. J. R. 9 - “Proposing an amendment to the Constitution of the State of West Virginia amending article X thereof by adding thereto a new section, designated section five-a, relating to taxes and fees; providing that bills imposing a tax or license fee and bills increasing the effective rate of any tax levied or fee imposed may not be enacted unless two-thirds of the members of each house, present

and voting, vote in the affirmative for passage; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of the proposed amendment”; to the Committee on Finance then the Judiciary.

By Delegate Howell:

H. J. R. 10 - “Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article ten thereof, relating to ad valorem property tax rates for citizens of the age of 65 or older; locking the value of a homestead property, for the purpose of calculating property taxes, at the assessed value when the owner-occupier turned 65 or purchased the property, whichever occurred later”; to the Committee on Finance then the Judiciary.

By Delegates Howell, Fleischauer and Martin:

H. J. R. 11 - “Proposing an amendment to the Constitution of the State of West Virginia amending section 46, article VI thereof, relating to the authority of the Legislature to regulate the manufacture and sale of alcohol; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Government Organization then the Judiciary.

By Delegates Hansen and Fleischauer:

H. J. R. 12 - “Proposing an amendment to the Constitution of the State of West Virginia, amending article three thereof by adding thereto a new section, designated section 23, relating to the Bill of Rights; proving for the right to clean air and pure water; preservation of our natural resources and public estate; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegate Steele:

H. J. R. 13 - “Proposing an amendment to the Constitution of the State of West Virginia amending article III thereof by adding thereto a new section, designated section twenty-three, relating to the right to hunt, fish, and harvest wildlife; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Agriculture and Natural Resources then Rules.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegate Foster:

H. B. 2294 - “A Bill to amend and reenact §21-1C-5 of the Code of West Virginia, 1931, as amended, relating to filing reports with the Division of Labor and removing the requirement for contractors to file payroll information on public improvement construction projects”; to the Committee on Workforce Development then the Judiciary.

By Delegate Foster:

H. B. 2295 - “A Bill to amend and reenact §61-10-15 of the Code of West Virginia, 1931, as amended, relating to pecuniary interest of county and district officers, teachers, and school officials in contracts; making an exception to criminal violation for contract for goods or supplies when the contract has been put out for competitive bid and the contract is awarded based upon lowest cost”; to the Committee on Government Organization then the Judiciary.

By Delegate Foster:

H. B. 2296 - “A Bill to repeal §21-11-1, §21-11-2, §21-11-3, §21-11-4, §21-11-5, §21-11-6, §21-11-7, §21-11-8, §21-11-9, §21-11-10, §21-11-10a, §21-11-11, §21-11-12, §21-11-13, §21-11-14, §21-11-15, §21-11-16, §21-11-17, §21-11-18, and §21-11-20 of the Code of West Virginia, 1931, as

amended; and to amend said code by adding thereto a new article, designated §30-42-1, §30-42-2, §30-42-3, §30-42-4, §30-42-5, §30-42-6, §30-42-7, §30-42-8, §30-42-9, §30-42-10, §30-42-11, §30-42-12, §30-42-13, §30-42-14, §30-42-15, §30-42-16, §30-42-17, §30-42-18, §30-42-19, and §30-42-20, all relating to the West Virginia Contractor Act; providing a short title and declaration of policy with definitions; continuing the West Virginia Contractor Licensing Board, composition, terms, qualifications and appointment; administrative duties of board and legislative rules; necessity for contractor license and exemptions; procedure for licensing; providing for expiration date, fees and renewal of license; providing for revocation for unlawful use, assignment or transfer of license; prerequisites to obtaining building permit and mandatory written contracts; requiring informational list for basic universal design features; providing injunction and criminal penalties for violation of article; specific administrative duties of board and record keeping by the board; authorizing to grant reciprocity and to provide training to students who desire to obtain a West Virginia contractor license; and misdemeanor criminal penalties for violations of article"; to the Committee on Government Organization then the Judiciary.

By Delegate Foster:

H. B. 2297 - "A Bill to amend and reenact §7-11-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-12-3 and §7-12-3a of said code; and to amend and reenact §8A-2-3 of said code, all relating to limiting the maximum number of appointees to certain county and municipal bodies; and imposing quorum requirements on certain county and municipal bodies"; to the Committee on Political Subdivisions then Government Organization.

By Delegate Foster:

H. B. 2298 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-3-11, relating to requiring a warning light to be erected on certain roads to warn of a traffic light ahead"; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegate Foster:

H. B. 2299 - "A Bill to amend and reenact §17C-14-2 of the Code of West Virginia, 1931, as amended, relating to clarifying that a vehicle may not be backed into a public street or highway unless it does not interfere with other traffic"; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegates Foster and Fast:

H. B. 2300 - "A Bill to amend and reenact §51-9-1a of the Code of West Virginia, 1931, as amended, relating to including family court judges in the Judges' Retirement System"; to the Committee on Pensions and Retirement then Finance.

By Delegates Foster and J. Jeffries:

H. B. 2301 - "A Bill to repeal §11-19-2 of the Code of West Virginia, 1931, as amended, relating to excise soft drink taxes"; to the Committee on Finance.

By Delegates Foster, McGeehan and J. Jeffries:

H. B. 2302 - "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 and §48-9-204 of said code; to amend said code by adding thereto a new section, designated §48-9-204a; and to amend and reenact §48-9-206, §48-9-207, §48-9-209, §48-9-403 and §48-9-601 of said code, 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"; to the Committee on Senior, Children, and Family Issues then the Judiciary.

At 11:10 a.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 12, 2021.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, FEBRUARY 12, 2021

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON FINANCE
9:00 A.M. – HOUSE CHAMBER**

**COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 215 E**

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