

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
SEVENTH DAY

Charleston, West Virginia, Tuesday, January 15, 2019

The Senate met at 11:03 a.m.

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

Prayer was offered by Keith Tyler, State Director of the Fellowship of Christian Athletes, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan W. Weld, a senator from the first district.

Pending the reading of the Journal of Monday, January 14, 2019,

At the request of Senator Beach, 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 following communication was reported by the Clerk:

The Senate of West Virginia
Charleston

RICHARD N. OJEDA, II
STATE SENATOR
7TH SENATORIAL DISTRICT



STATE CAPITOL, ROOM W-213
1900 KANAWHA BLVD. EAST
CHARLESTON, WV 25305-0800
304-357-7857

Senator Mitch Carmichael, President
West Virginia Senate
Room 227M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

14 January 2019

Dear President Carmichael;

Please accept this letter of formal resignation from my seat as Senator for the Seventh District effective close of business today. I do not resign lightly nor out of anger or surrender, but because it would be unfair to leave this seat empty, with no voice for my district as I pursue my charted course.

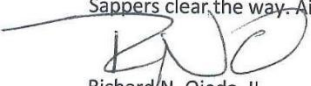
It has been an honor to have served in this revered Chamber and to have been entrusted with protecting and furthering the good works for the citizens who elected me and for West Virginians as a whole. Frustrating at times, yes, but a true honor.

As stated in earlier remarks from the floor, all that I have worked for, strived for, was not for any personal benefit or glory for myself but for the benefit of the people of our wonderful state. It is hard to stand by, nay impossible, and not take to heart the serious issues facing our neighbors, our family, our friends. And in respect to this, it is my sincere hope that the promise made by the governor to our teachers for the additional raise and PEIA cash infusion will be passed in a clean bill. A bill that will not attack their hard-earned tenure. At least working side by side with Russell Williams, learning about the many non-addictive pain management benefits of medical cannabis, I am glad we sensibly became the 29th state to legitimize this natural, God-given plant.

To my brothers in the Democratic party, thank you for your knowledge, guidance, and friendship. It has been a true honor to serve with you and to fight the good fight.

It is the frustration of not having been able to do more, and my belief that I cannot help remedy other serious issues facing West Virginia by directly working within this body, within the state, that today I, Richard N. Ojeda II, do hereby resign my office as Senator for the 7th District. I sincerely hope that the Governor remains honorable to his office, does right by my constituents, and selects a strong Democrat. One who is not a lobbyist or a friend. One who stands proudly and honestly for the district.

Sappers clear the way. Airborne all the way.


Richard N. Ojeda, II
Senator, District 7

RO:ly
Cc: Lee Cassis, Clerk of the Senate

The Senate proceeded to the fourth order of business.

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 61, Adding certain crimes for which prosecutor may apply for wiretap.

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

Com. Sub. for Senate Bill 61 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, 1931, as amended, relating to including the crimes of treason, first and second degree murder, first degree robbery, and participation in an organized criminal enterprise to the list of crimes for which a prosecutor may apply for a court order authorizing interception of communications

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 184, State Tax Department rule relating to exchange of information agreement between Tax Division and DEP.

Senate Bill 185, State Tax Department rule relating to exchange of information agreement between State Tax Division and Alcohol Beverage Control Administration.

Senate Bill 186, State Tax Department rule relating to exchange of information pursuant to written agreement.

Senate Bill 187, State Tax Department rule relating to exchange of information agreements between State Tax Division and certain state agencies.

Senate Bill 188, State Tax Department rule relating to exchange of information agreement between State Tax Department and WV Lottery.

And,

Senate Bill 189, State Tax Department rule relating to exchange of information agreement between State Tax Department and State Fire Marshal.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,
Chair.

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 229, DNR rule relating to commercial whitewater outfitters.

And,

Senate Bill 230, DNR rule relating to Cabwaylingo State Forest trail system two-year pilot program permitting ATVs and ORVs.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mark R. Maynard,
Chair.

The bills, under the original double committee references, were then referred to 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 272, Updating code relating to Commission on Special Investigations.

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

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 Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Maynard, Smith, Sypolt, Romano, Stollings, Beach, Cline, Woelfel, Baldwin, Maroney, Tarr, Takubo, and Prezioso:

Senate Bill 303—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; and exempting Social Security benefits from personal income tax.

Referred to the Committee on Finance.

By Senators Hamilton, Facemire, Ihlenfeld, Jeffries, Maynard, Smith, Sypolt, Stollings, Lindsay, Baldwin, Beach, Cline, and Takubo:

Senate Bill 304—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-1B-1, §5B-1B-2, §5B-1B-3, and §5B-1B-4, all relating to establishing the Southern West Virginia Lake Development Study Commission; providing legislative findings; establishing the commission and designating its membership; defining components of commission study; authorizing the commission to create committees and utilize university and other state government resources; providing for expense reimbursement for certain commission members; and requiring reports to the Legislature.

Referred to the Committee on Economic Development; and then to the Committee on Government Organization.

By Senators Hamilton, Boso, Ihlenfeld, Jeffries, Smith, Romano, Woelfel, Lindsay, Baldwin, Beach, Cline, and Takubo:

Senate Bill 305—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i, relating to prohibiting the wasting of big game animals; defining a term; and creating a misdemeanor penalty.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

By Senators Lindsay, Baldwin, Jeffries, Beach, and Prezioso:

Senate Bill 306—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2P-1, §16-2P-2, §16-2P-3, §16-2P-4, §16-2P-5, §16-2P-6, §16-2P-7, §16-2P-8, §16-2P-9, §16-2P-10, §16-2P-11, §16-2P-12, §16-2P-13, §16-2P-14, §16-2P-15, §16-2P-16, §16-2P-17, §16-2P-18, §16-2P-19, and §16-2P-20, all relating to establishing the Family and Medical Leave Insurance Benefits Act; defining terms; detailing eligibility requirements; declaring the duration of benefits authorized by the article; noting the amount of benefits; specifying contributions; setting certain requirements and entitlements under the article; protecting against certain adverse action for exercising certain rights under the article; prohibiting retaliation or discrimination under the article; declaring the article to run concurrently with other leave-related laws; requiring employers to provide certain notice; detailing the process for enforcing the article; addressing erroneous payments and disqualification; permitting self-employed persons to elect coverage with certain requirements; requiring the Insurance Commissioner to establish the Family and Medical Leave Insurance Program; requiring certain disclosures related to federal income tax; creating the Family and Medical Leave Insurance Account Fund; authorizing certain expenditures from the fund and investments of the fund; requiring annual reports to the Legislature; requiring the Insurance Commissioner to implement a public education program; encouraging the Insurance Commissioner to use state data collection and technology to integrate the program with other state policies; authorizing legislative rules by a certain date; and setting an effective date.

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

By Senator Boso:

Senate Bill 307—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, §16-54-3, and §16-54-4, all relating to creating the Nondiscrimination in Involuntary Denial of Treatment Act; requiring the provision of medical treatment under certain circumstances; requiring the disclosure of policies related to the life-preserving treatment a patient may receive or be denied; and requiring the Department of Health and Human Resources to maintain and report on certain information.

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

By Senators Hamilton, Baldwin, Beach, Cline, Takubo, and Prezioso:

Senate Bill 308—A Bill to amend and reenact §20-7-1d and §20-7-1f of the Code of West Virginia, 1931, as amended, all relating to awarding service weapons to special natural resources police officers upon retirement; disposal of service weapon when replaced due to routine wear; furnishing uniform for burial; and making stylistic changes.

Referred to the Committee on Government Organization.

By Senators Blair, Maroney, and Takubo:

Senate Bill 309—A Bill to amend and reenact §60A-7-705 of the Code of West Virginia, 1931, as amended, relating to civil asset forfeiture; requiring the state prove that owner of seized property has been convicted of a crime and that seized property was substantially related to said crime before the state can perfect title to the seized property; and requiring the state return seized property to its owner if the state cannot meet its evidentiary burden.

Referred to the Committee on the Judiciary.

By Senators Stollings, Jeffries, Beach, Takubo, and Prezioso:

Senate Bill 310—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-39, relating to defining certain key terms; prohibiting insurers from requiring dentists to provide discount on noncovered services; prohibiting dentists from charging more for covered persons on noncovered services than his or her customary or usual rate for the services; and providing that insurers may not provide for a nominal reimbursement for a service in order to claim that a service or material is covered.

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

By Senators Takubo, Maroney, Stollings, Woelfel, Baldwin, Cline, Tarr, and Prezioso:

Senate Bill 311—A Bill to amend and reenact §17B-2-6 of the Code of West Virginia, 1931, as amended, relating to requiring applicants for first-time licensing to view a video on the dangers of secondhand smoke.

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

By Senators Lindsay and Jeffries:

Senate Bill 312—A Bill to amend and reenact §24-6-12 of the Code of West Virginia, 1931, as amended, relating to requiring members of the State Police to follow the towing services policy of the county in which the member is located.

Referred to the Committee on Government Organization.

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

Senate Bill 313—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; establishing Advanced Career Education (ACE) programs and pathways; providing that certain high school graduates shall be considered adults enrolled in regular secondary programs for funding purposes; requiring community and technical colleges establish partnerships with career technical education centers, county boards of education, or both, that provide for ACE programs; providing requirements for ACE programs and pathways; requiring the Board of Education and the West Virginia Council for Community and Technical College Education promulgate joint guidelines; requiring the Division of Vocational Education and the council maintain and annually report certain information; providing that community and technical colleges and career technical education centers shall participate in one or more ACE partnerships in order to receive certain funding; establishing the WV Invests Grant Program; defining terms; authorizing the council to award WV Invests Grants under certain terms and conditions; requiring the council to report certain information on the WV Invests Grant Program; requiring the council to promulgate rules; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.

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

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

Senate Bill 314—A Bill to repeal §5A-6-4a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5A-6B-1, §5A-6B-2, §5A-6B-3, §5A-6B-4, and §5A-6B-5, all relating to cybersecurity of state government; removing the requirements of the Chief Technology Officer to oversee security of government information; creating the Cybersecurity Office; defining terms; providing that the Chief Information Security Officer oversee the Cybersecurity Office; authorizing the Chief Information Security Officer to create a cybersecurity framework, to assist and provide guidance to agencies in cyber-risk strategy, and setting forth other duties; providing rule-making authority; requiring agencies to undergo cyber-risk assessments; establishing scope of authority; exempting certain state entities; designating reporting requirements; requiring agencies to address any cybersecurity deficiencies; and exempting information related to cyber risk from public disclosure.

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

By Senators Weld, Clements, Stollings, Baldwin, Hamilton, Roberts, Jeffries, Cline, Tarr, and Prezioso:

Senate Bill 315—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-3C-1, §15-3C-2, §15-3C-3, §15-3C-4, §15-3C-5, §15-3C-6, and §15-3C-7, all relating to establishing an alert system for law-enforcement officers missing in

the line of duty or person suspected of killing or inflicting life-threatening injuries upon a law-enforcement officer who remain at large; providing legislative findings and declarations relative to the Blue Alert Plan; establishing a Blue Alert program; definitions; activating a Blue Alert; notifying participating media; broadcasting a Blue Alert; notifying the Department of Transportation, the Division of Highways, and the West Virginia Turnpike Commission of the Blue Alert; terminating the Blue Alert; immunity from criminal or civil liability; and authorizing promulgation of guidelines and procedural rules.

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

Petitions

Senator Hamilton presented a petition from Deborah J. Roach and numerous West Virginia residents, requesting an increase in funding for senior centers.

Referred to the Committee on Finance.

Senator Sypolt presented a petition from the North Central Road Caucus, requesting additional funding to cover costs of CORE maintenance on all primary roads in the Division of Highways' District 4.

Referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 9, US Army PFC Winten L. Wayts 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 ninth order of business.

Senate Bill 10, Relating to Second Chance Driver's License Program.

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

Senate Bill 24, Relating generally to local boards of health.

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

Senate Bill 27, Removing restrictions on where certain traditional lottery games may be played.

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

Senate Bill 28, Removing hotel occupancy tax limit collects for medical care and emergency services.

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

Senate Bill 36, Allowing adjustment of gross income for calculating personal income liability for certain retirees.

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 106, Alleviating double taxation on foreign income at state level.

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

Senate Bill 177, Fire Commission rule relating to State Building Code.

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

Senate Bill 190, DOH rule relating to employment procedures.

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

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

On page one, section one, line three, after the word "authorized" by striking out the period and adding the following: with the following amendment:

On page three, by adding a new subsection to 2.29 to read as follows:

"2.29. 'Premium Time' means overtime paid at a rate of time and a half.";

On pages three and four, by renumbering the remaining subsections;

And,

On page fourteen, section twelve after the word "premium" by inserting the word "time".

The bill (S. B. 190), as amended, was then ordered to engrossment and third reading.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Baldwin and Hamilton.

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

At the request of Senator Takubo, unanimous consent being granted, the remarks by Senator Hamilton were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:27 a.m., the Senate adjourned until tomorrow, Wednesday, January 16, 2019, at 11 a.m.

SENATE CALENDAR

**Wednesday, January 16, 2019
11:00 AM**

THIRD READING

Eng. S. B. 10 - Relating to Second Chance Driver's License Program

Eng. S. B. 24 - Relating generally to local boards of health

Eng. S. B. 27 - Removing restrictions on where certain traditional lottery games may be played

Eng. S. B. 28 - Removing hotel occupancy tax limit collects for medical care and emergency services

Eng. S. B. 36 - Allowing adjustment of gross income for calculating personal income liability for certain retirees

Eng. Com. Sub. for S. B. 106 - Alleviating double taxation on foreign income at state level

Eng. S. B. 177 - Fire Commission rule relating to State Building Code

Eng. S. B. 190 - DOH rule relating to employment procedures

FIRST READING

Com. Sub. for S. B. 61 - Adding certain crimes for which prosecutor may apply for wiretap

S. B. 272 - Updating code relating to Commission on Special Investigations

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2019

Wednesday, January 16, 2019

2 p.m.

Agriculture & Rural Development

(Room 208W)