

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
FIFTEENTH DAY

Charleston, West Virginia, Wednesday, January 23, 2019

The Senate met at 11:05 a.m.

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

Prayer was offered by Chuck Kinder, Lay Pastor, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Sue Cline, a senator from the ninth district.

Pending the reading of the Journal of Tuesday, January 22, 2019,

At the request of Senator Baldwin, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2362—A Bill to amend and reenact §3-3-5c of the Code of West Virginia, 1931, as amended, relating to procedures for voting an emergency absentee ballot by qualified voters; and providing a mechanism to allow a qualified voter who is confined to a specific location within the county other than a hospital or other duly licensed health care facility or a nursing home and is prevented from travelling to a polling place and voting in person because of illness, injury or other medical reason, or a physical disability or immobility due to extreme advanced age.

Referred to the Committee on the Judiciary.

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 55, Relating to driving privileges and requirements for persons under 18.

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

Com. Sub. for Senate Bill 55 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating to driving privileges and requirements for persons under the age of 18; prohibiting the holder of a level three, full class E license from using a wireless communication device while operating motor vehicle and specifying exception; and making violation of level three license terms and conditions subject to criminal penalty provision.

With the recommendation that the committee substitute 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 101, Equalizing penalties for intimidating and retaliating against certain public officers and other persons.

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

Com. Sub. for Senate Bill 101 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to equalizing the criminal penalties for intimidating and retaliating against public officers and employees, jurors, and witnesses; increasing penalty for intimidation of such persons to a felony; and establishing criminal penalties.

And,

Senate Bill 124, Creating felony offense for actions of cruelty to animals which causes serious injury or death of animal.

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

Com. Sub. for Senate Bill 124 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to creating a felony offense for cruelty to an animal that cause bodily injury to or death of the animal and creating a felony offense for second and subsequent convictions of cruelty to animals.

With the recommendation that the two 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 103, Relating generally to Public Defender Services.

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

Com. Sub. for Senate Bill 103 (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 to amend said code by adding thereto a new section, designated §29-21-9a; and to amend and reenact §29-21-13a of said code, all relating generally to Public Defender Services; transferring initial authority to review, approve, modify, or refuse panel attorney vouchers from circuit courts to Public Defender Services; providing for resubmission or reconsideration of vouchers previously modified or refused; establishing procedures for handling of modified or refused vouchers; maintaining final authority over payment of vouchers with circuit courts; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to contract for noncriminal legal services; providing for payment of contracts; authorizing agency to reduce or reject vouchers or requests for payment; requiring panel attorneys to maintain time-keeping records to enable the attorney to determine time expended on a daily basis; authorizing Governor by executive order to borrow funds from the Revenue Shortfall Reserve Fund to pay appointed counsel; establish repayment requirements; requiring Secretary of Administration's clarification that borrowing is necessary; expiring authorization to borrow on January 1, 2021; setting record-keeping standards; requiring prompt processing and payment of vouchers; increasing the rates of compensation for panel attorneys; authorizing payment for in-court paralegal services with prior approval of the circuit court and subject to agency rule regarding maximum reimbursement; and authorizing the executive director to promulgate emergency rules; and setting an effective date.

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.

The bill (Com. Sub. for S. B. 103), under the original double committee reference, was then referred to the Committee on Finance.

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 173, DHHR rule relating to medication-assisted treatment—office-based medication-assisted treatment.

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,

Michael J. Maroney,
Chair.

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

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

Your Committee on Finance has had under consideration

Senate Bill 178, Lottery Commission rule relating to WV Lottery sports wagering rule.

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,

Craig Blair,
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 233, Relating to age requirements for deputy sheriff.

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

Respectfully submitted,

Gregory L. Boso,
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 238, Increasing fines for passing stopped school bus.

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 241, Permitting county court clerks scan certain documents in electronic form.

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

Com. Sub. for Senate Bill 241 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §39-1-11 of the Code of West Virginia, 1931, as amended, relating to writings to be recorded under the direction of the county clerk; permitting the clerk, with authorization from the county commission, to scan and record certain documents in electronic form rather than in well-bound books, not prepare indices in separate books, and replace existing books by scanning them in approved electronic format; requiring that existing books be retained; providing exception to retention of books; and updating terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
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 268, Updating meaning of federal taxable income in WV Corporation Net Income Tax Act.

And,

Senate Bill 269, Updating terms used in WV Personal Income Tax Act.

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

Respectfully submitted,

Craig Blair,
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 291, Relating generally to survivor benefits for emergency response providers.

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,

Gregory L. Boso,
Chair.

The bill, 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 Bill 333, Exempting automobiles 25 years or older from personal property taxes.

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 H. Clements,
Chair.

The bill, 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 4, US Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 4 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name a portion of State Route 16 from milepost 22.85 to milepost 26.7 in McDowell County, the “U.S. Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road”.

Whereas, Dennis Ray Blankenship was born January 8, 1938, in Bartley, McDowell County, West Virginia; and

Whereas, Dennis Ray Blankenship served in the United States Marine Corps during the Vietnam War and reached the rank of Lieutenant Colonel; and

Whereas, Lt. Col. Dennis Ray Blankenship was highly decorated for his conspicuous gallantry and intrepidity in action, and was awarded the Silver Star; and

Whereas, Naming a portion of road in McDowell County is an appropriate recognition of his service and sacrifice for his country, his state, his community, and McDowell County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of State Route 16 from milepost 22.85 to milepost 26.7 in McDowell County, the "U.S. Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the "U.S. Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road"; and, be it

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

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles H. Clements,
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 Concurrent Resolution 9, US Army PFC Winten L. Wayts Memorial Bridge.

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

Respectfully submitted,

Charles H. Clements,
Chair.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, and by unanimous consent, 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 Takubo, Ihlenfeld, Jeffries, Maroney, Weld, Woelfel, Palumbo, Plymale, Stollings, Hamilton, Hardesty, Baldwin, and Trump:

Senate Bill 394—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-3a, relating to permitting the state to opt out of a federal statute that would otherwise not allow a state resident who has been convicted of a felony involving a controlled substance from receiving benefits under the Supplemental Nutrition Assistance Program provided that certain conditions are met.

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

By Senators Tarr, Boso, Maroney, Sypolt, and Takubo:

Senate Bill 395—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-6, relating to authorizing the West Virginia Public Employees Insurance Agency to establish base benefits insurance plans.

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

By Senators Tarr and Cline:

Senate Bill 396—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to waiver of initial occupational licensing fees for certain individuals; requiring board and licensing authorities to waive certain initial occupational licensing fees for low-income individuals, military families, and young workers; defining terms; requiring individuals seeking waiver of initial occupational licensing fees to apply on a form provided by the board or licensing authority; and granting rule-making authority.

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

By Senator Cline:

Senate Bill 397—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-1-69 of said code; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; amending the definition of “autocycle”; and clarifying the autocycle exemption from helmet requirements.

Referred to the Committee on Transportation and Infrastructure.

By Senators Trump, Takubo, Stollings, and Prezioso:

Senate Bill 398—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 limitations.

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

By Senators Trump, Stollings, and Beach:

Senate Bill 399—A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §50-1-6a 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; limiting the per diem rate of compensation that may be paid to senior magistrates for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior magistrate during a single calendar year may not exceed the annual salary of a sitting magistrate; providing an exception to the limitation on the combined total of per diem compensation and retirement benefits paid to a senior magistrate 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 senior magistrate; requiring that administrative orders regarding extended assignment of a senior magistrate be submitted to the State Auditor and the State Treasurer; and providing that senior magistrates may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

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

By Senators Romano and Takubo:

Senate Bill 400—A Bill to amend and reenact §30-4-3, §30-4-8, and §30-4-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-4-8a, all relating generally to dentistry; permitting the West Virginia Board of Dentistry to create specialty licenses; setting forth those specialty licenses; changing the specific examination an applicant must pass before being issued a license to practice dentistry; changing the type of exam an applicant must pass before being issued a license to practice dental hygiene; and defining terms.

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

By Senators Cline, Azinger, Boley, Boso, Hamilton, Jeffries, Maynard, Hardesty, Roberts, Smith, Swope, Sypolt, Tarr, Woelfel, Plymale, Unger, Ihlenfeld, Takubo, Stollings, Baldwin, Maroney, and Rucker:

Senate Bill 401—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; exempting Social Security benefits from personal income tax; and establishing an effective date.

Referred to the Committee on Finance.

By Senators Sypolt, Beach, Stollings, Hamilton, Boso, Cline, Baldwin, Maroney, and Prezioso:

Senate Bill 402—A Bill to amend and reenact §19-1A-3b of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Forestry to investigate and enforce timber theft violations on all lands.

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

By Senators Sypolt, Roberts, and Hamilton:

Senate Bill 403—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §41-3-12, relating to prohibiting that any next of kin who is criminally responsible for the death of a relative may not be involved in the decedent's burial arrangements.

Referred to the Committee on the Judiciary.

By Senators Sypolt and Boso:

Senate Bill 404—A Bill to amend and reenact §19-1B-4, §19-1B-6, §19-1B-7, §19-1B-10, and §19-1B-12a of the Code of West Virginia, 1931, as amended, all relating generally to sediment control during commercial timber harvesting operations; increasing the threshold amount before a logger must follow certain licensing requirements regarding sediment control; requiring the logger to notify the Director of the Division of Forestry at least three days before timbering begins; requiring certain training requirements prior to recertification of certified loggers; providing for appeals; increasing criminal penalties; and removing certain limitations on issuing citations and powers of arrest.

Referred to the Committee on Natural Resources; and then to the Committee on Government Organization.

By Senator Sypolt:

Senate Bill 405—A Bill to amend and reenact §11A-3-23, §11A-3-25, §11A-3-56, §11A-3-57, and §11A-3-58 of the Code of West Virginia, 1931, as amended, all relating to increasing the limit to \$500 on additional expenses a purchaser may recover in preparing notice list for redemption of purchase and for licensed attorney's title examination.

Referred to the Committee on Government Organization.

By Senator Trump:

Senate Bill 406—A Bill to amend and reenact §11-10-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-18a of said code, all relating to the collection of tax and the priority of distribution of an estate or property in receivership, and the liability of the fiduciary.

Referred to the Committee on Finance.

By Senator Trump:

Senate Bill 407—A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating to presumptions of abandonment and indication of ownership in property held by a financial institution.

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

By Senators Palumbo and Woelfel:

Senate Bill 408—A Bill to amend and reenact §29-21-16 of the Code of West Virginia, 1931, as amended, relating to public defender services; and determining indigency.

Referred to the Committee on the Judiciary.

By Senators Rucker, Hamilton, Lindsay, Plymale, Prezioso, Smith, Sypolt, Trump, and Baldwin:

Senate Bill 409—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; to amend and reenact §24-1-2 of said code; and to amend and reenact §24-2-1 of said code, all relating to permitting third-party ownership of all renewable and alternative generating facilities.

Referred to the Committee on Energy, Industry, and Mining; and then to the Committee on Finance.

Senators Stollings, Palumbo, Plymale, Beach, Jeffries, Sypolt, Swope, Baldwin, and Hardesty offered the following resolution:

Senate Resolution 16—Recognizing the Daniel Boone VFW Post 5578 for dedicated service to its community, state, and country.

Whereas, The Daniel Boone VFW Post 5578 provides exceptional service programs to its veterans and the community, including: The Post Honor Guard, providing veterans their final military honor burial rites; participating at local community and state events where the veteran and those who serve, or have served, are to be honored; visiting all Boone County schools and giving an “Americanism” program; providing a senior high school graduate from each high school in the county with a scholarship; and, during each December for well over six decades, providing to the less fortunate in the county a Christmas food box, while also distributing fruit baskets to numerous individuals in the community, including nursing homes and convalescent homes; and

Whereas, Under the leadership of Post Commander Curtis Mayhorn and Quartermaster Joe Golie, the chairs of each committee and every committee member, and in special partnership with the Post Auxiliary, the Daniel Boone VFW Post 5578 earned the honor of being named an All-American Post, one of only 50 Posts nationwide to receive this recognition; and

Whereas, The Daniel Boone VFW Post 5578 has demonstrated its dedication and commitment to its fellow veterans and community, and is a shining example of what can be accomplished with teamwork, dedication, and spirit; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the Daniel Boone VFW Post 5578 for dedicated service to its community, state, and country; and, be it

Further Resolved, That the Senate extends its sincere appreciation and gratitude to the members of the Daniel Boone VFW Post 5578 for their dedicated public service; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Daniel Boone VFW Post 5578.

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.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Stollings regarding the adoption of Senate Resolution 16 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:25 a.m., the Senate recessed to present Senate Resolution 16.

The Senate reconvened at 11:27 a.m. and resumed business under the sixth order.

Senators Ihlenfeld, Sypolt, Woelfel, Palumbo, Plymale, Beach, Stollings, Hamilton, Unger, Takubo, Boso, Jeffries, Lindsay, Cline, Swope, Baldwin, and Rucker offered the following resolution:

Senate Resolution 17—Designating January 23, 2019, as Sexual and Domestic Violence Awareness Day at the Legislature.

Whereas, All people have a right to be safe in their home, school, workplace, college campus, and community; and

Whereas, On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. During one year, this equates to more than 10 million women and men; and

Whereas, One in six women and one in 22 men in West Virginia will be victims of an attempted or completed forcible rape; and

Whereas, During the fiscal year 2016-2017, 14,175 individuals were served by one or more of the 14 licensed domestic violence programs in West Virginia, six of which also provide rape crisis services; and

Whereas, In West Virginia, 4,445 children were served a Child Advocacy Center as a new client last year, representing 1 in every 100 children in our state, and a 69 percent increase over the last five years; and

Whereas, Last year, 10 rape crisis centers provided 24/7 crisis intervention services in 45 counties and provided 1,097 prevention programs to over 20,000 students and residents; and

Whereas, The incarceration of sexual and domestic violence offenders in our state correctional facilities costs taxpayers tens of millions of dollars each year; and

Whereas, The lifetime economic burden of intimate partner violence among adults in the United States is \$103,767 of lifetime cost per female victim and \$23,414 of lifetime cost per male victim; and

Whereas, Domestic violence, sexual violence, and child abuse can be deterred, prevented, and reduced through a large network of private, public, and nonprofit entities working together as coalitions providing social, legal, medical, educational, and protective services for victims; and

Whereas, The West Virginia Coalition Against Domestic Violence and the West Virginia Foundation for Rape Information and Services have each been working for 37 years, individually and collaboratively, to provide safe spaces, quality services and systemic change. The West Virginia Child Advocacy Network has been working 10 years to give individuals, children, and families options for building lives free from violence; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 23, 2019, as Sexual and Domestic Violence Awareness Day in West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Coalition Against Domestic Violence.

At the request of Senator Ihlenfeld, 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 Takubo, and by unanimous consent, the remarks by Senators Ihlenfeld and Hardesty regarding the adoption of Senate Resolution 17 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:32 a.m., the Senate recessed to present Senate Resolution 17.

The Senate reconvened at 11:35 a.m. and, at the request of Senator Trump, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

Senators Prezioso, Sypolt, Palumbo, Plymale, Beach, Stollings, Unger, Takubo, Jeffries, Swope, and Baldwin offered the following resolution:

Senate Resolution 18—Recognizing the 20th anniversary of the James “Tiger” Morton Catastrophic Illness Fund.

Whereas, James “Tiger” Morton had an illustrious career as a minister, teacher, coach, principal, special assistant for the Governor’s Office, and legislative liaison and ombudsman for what is now the West Virginia Department of Health and Human Resources; and

Whereas, James “Tiger” Morton created lasting relationships with, and earned respect from, governors and legislators, received many distinguished service awards, had a deep interest in children’s well-being, and helped West Virginians in need by arranging for medical transplants, assisting with applications for benefits, and everything in between; and

Whereas, His selfless devotion and compassion resulted in the creation of the James “Tiger” Morton Catastrophic Illness Fund in 1999 during the 74th regular session of the West Virginia Legislature; and

Whereas, James “Tiger” Morton’s contributions were so valued that his body was laid in state in the Capitol upon his passing; and

Whereas, The James “Tiger” Morton Catastrophic Illness Commission perpetuates his valuable legacy by providing a source of economic assistance outside the scope of existing public programs to West Virginians facing catastrophic illness and saving many lives; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the 20th anniversary of the James “Tiger” Morton Catastrophic Illness Fund; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the James “Tiger” Morton Catastrophic Illness Fund.

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

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

On motion of Senator Takubo, at 11:41 a.m., the Senate recessed to present Senate Resolution 18.

The Senate reconvened at 11:44 a.m. and resumed business under the sixth order.

Senators Blair, Unger, Beach, Sypolt, Palumbo, Plymale, Stollings, Hamilton, Takubo, Hardesty, Boso, Jeffries, and Maynard offered the following resolution:

Senate Resolution 19—Designating January 23, 2019, as West Virginia for Broadband Day at the Capitol.

Whereas, The broadband industry strives to educate business leaders, economic development entities, and policy makers about the value of broadband and assists them in their efforts to enact effective decisions to expand internet access to all West Virginians, thereby advancing the future prosperity and diversity of our beautiful Mountain State; and

Whereas, Broadband access means West Virginians have more access to communicate. Today, broadband connectivity access means accessing a wide range of services and products used to enhance people’s everyday lives and their daily communications; and

Whereas, Access to broadband connectivity enhances public safety, drives economic development, contributes to better living conditions through telehealth opportunities, and encourages educational, cultural, and entertainment opportunities; and

Whereas, West Virginia’s broadband connections are growing throughout the Mountain State. A 2016 study provided that over the course of 18 months, 134,000 households had new or improved broadband speeds thanks to statewide investments from providers. Moreover, 16,900 households received entirely new broadband opportunities, while an additional 117,000 households gained improved speeds; and

Whereas, Since the year 2011, access to a wired connection of at least 10 mbps has improved throughout West Virginia from 44.5 percent to 91.3 percent. And, the West Virginia Broadband Program has received almost \$5 million in federal grant awards for West Virginia’s Broadband Initiative since 2010; and

Whereas, Projects relating to broadband infrastructure have received almost \$130 million, accounting for 3.7 percent of all federal infrastructure grants in West Virginia; and

Whereas, Due to the rugged terrain of West Virginia, more and more people are connecting to broadband wirelessly. Small cell and 5G technology are part of that story; and

Whereas, The United States Chamber of Commerce has reported that small cell and 5G technology have the ability to be an economic game changer for the West Virginia and United States economies because of the benefits it will bring. That study reported that 5G and small cell networks have the capability to add 3,000,000 new jobs and \$5 billion in overall GDP; and

Whereas, Fifty-five hundred West Virginians are directly employed with an annual payroll of \$74 Million; and

Whereas, The broadband industry is proud of the work that has been done and is being done across the state to further broadband access and find ways to address connectivity challenges; and

Whereas, The broadband industry encourages people to become more aware of the new technologies like small cell and 5G that will enable more West Virginia businesses and their employees to connect to a global economy; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 23, 2019, as West Virginia for Broadband Day at the Capitol; and, be it

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

At the request of Senator Plymale, 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 Takubo, and by unanimous consent, the remarks by Senators Plymale and Smith regarding the adoption of Senate Resolution 19 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:49 a.m., the Senate recessed to present Senate Resolution 19.

The Senate reconvened at 11:51 a.m. and proceeded to the seventh order of business.

Senate Concurrent Resolution 15, Studying feasibility of requiring all state agencies that collect fees and fines to deposit those funds in General Revenue Fund.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Com. Sub. for Senate Bill 1, Increasing access to career education and workforce training.

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 Committee Substitute for Senate Bill 1 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 Com. Sub. for S. B. 1) 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 Takubo, and by unanimous consent, the remarks by Senators Rucker, Prezioso, Plymale, Blair, Hardesty, and Boso regarding the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill 1 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for Senate Bill 18, Relating to crimes committed on State Capitol Complex.

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. 18) passed.

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

Eng. Com. Sub. for Senate Bill 18—A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to crimes against the peace generally; relating to offenses occurring at State Capitol Complex property; and removing the requirement that a person lawfully entitled to possess a firearm must have a concealed weapons permit to have a firearm secured and out of view in his or her vehicle on the State Capitol Complex.

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. 18) 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 255, Relating to Emergency Medical Services Advisory Committee.

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. 255) 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 354, Expiring funds to balance of Auditor's Office - Chief Inspector's 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: 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 354) 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. S. B. 354) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 223, Authorizing Department of Commerce promulgate legislative rules.

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

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

On page two, section two, line three, by striking out the words “rules and regulations” and inserting in lieu thereof the word “rule”;

And,

On page two, section two, line eight, by striking out the words “rules and regulations” and inserting in lieu thereof the word “rule”.

The bill (Com. Sub. for S. B. 223), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 253, Protecting consumers from automatic purchase renewal and continuous service offers.

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.

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

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Tarr, Woelfel, Maynard, and Takubo.

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, Thursday, January 24, 2019, at 11 a.m.

SENATE CALENDAR

**Thursday, January 24, 2019
11:00 AM**

UNFINISHED BUSINESS

Com. Sub. for S. C. R. 4 - US Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road
S. C. R. 9 - US Army PFC Winten L. Wayts Memorial Bridge

THIRD READING

Eng. Com. Sub. for S. B. 223 - Authorizing Department of Commerce promulgate legislative rules
(original similar to HB2246)
Eng. Com. Sub. for S. B. 253 - Protecting consumers from automatic purchase renewal and
continuous service offers

SECOND READING

Com. Sub. for S. B. 258 - Establishing common law "veil piercing" claims not be used to impose
personal liability

FIRST READING

Com. Sub. for S. B. 55 - Relating to driving privileges and requirements for persons under 18
Com. Sub. for S. B. 101 - Equalizing penalties for intimidating and retaliating against certain public
officers and other persons
Com. Sub. for S. B. 124 - Creating felony offense for actions of cruelty to animals which causes
serious injury or death of animal
S. B. 233 - Relating to age requirements for deputy sheriff
Com. Sub. for S. B. 241 - Permitting county court clerks scan certain documents in electronic form
S. B. 268 - Updating meaning of federal taxable income in WV Corporation Net Income Tax Act
(original similar to HB2414)
S. B. 269 - Updating terms used in WV Personal Income Tax Act (original similar to HB2413)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2019

Thursday, January 24, 2019

9:30 a.m.	Finance	(Room 451M)
1 p.m.	Health & Human Resources	(Room 451M)
2 p.m.	Education	(Room 451M)