

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

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

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Charleston, West Virginia, Monday, February 4, 2019

The Senate met at 11:07 a.m.

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

Prayer was offered by Seth Polk, Lead Pastor, Cross Lanes Baptist Church, Cross Lanes, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Chandler Swope, a senator from the sixth district.

Pending the reading of the Journal of Friday, February 1, 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 Clerk presented the following communication from a state agency as required by the provisions of law:

Administration, Department of (Comprehensive Procurement Program for Recycled Products)  
(§22-15A-21)

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 255**, Relating to Emergency Medical Services Advisory Committee.

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 2001**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting social security benefits from personal income tax; clarifying that tier one railroad retirement benefits are not subject to personal income tax; specifying an effective date; and removing obsolete language.

Referred to the Committee on Finance.

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

**Eng. House Bill 2474**—A Bill to amend and reenact §33-7-9 of the Code of West Virginia, 1931, as amended, relating to a reserving methodology for health insurance and annuity contracts; describing how the calendar year statutory valuation interest rate should be calculated regarding certain annuities and guaranteed interest contracts; and prescribing the minimum standard of valuation for health insurance contracts.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2476**—A Bill to amend and reenact §33-6-33 of the Code of West Virginia, 1931, as amended, relating to the valuation of a motor vehicle involved in an insurance claim; requiring that an amount equal to the consumers sales tax applicable to the sale of motor vehicles be added to a cash settlement arising from a total loss of a motor vehicle.

Referred to the Committee on Banking and Insurance.

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 2478**—A Bill to amend and reenact §47-11A-6 and §47-11A-9 of the Code of West Virginia, 1931, as amended, all related to costs and damages under the Fair Trade Practices Act.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 2480**—A Bill to amend and reenact §33-27-2 and §33-27-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-27-6b, all relating to the regulation of an internationally active insurance group; defining group-wide supervisor and internationally active insurance group; providing authority for the insurance commissioner to act as a group-wide supervisor for an internationally active insurance group; permitting the insurance commissioner to acknowledge another regulatory official as the group-wide supervisor for an internationally active insurance group under certain criteria; requiring insurance companies to submit information necessary for the insurance commissioner to determine whether he or she may act as the group-wide supervisor for an internationally active insurance group; authorizing specific regulatory actions when the insurance commissioner is acting as a group-wide supervisor for an internationally active insurance group;

allowing the insurance commissioner to enter into agreements with insurers regarding his or her role as group-wide supervisor for an internationally active insurance group; permitting the promulgation of rules; making insurers liable for the reasonable expenses of the insurance commissioner's participation as a group-wide supervisor for an internationally active insurance group; and rendering information provided by insurers to the insurance commissioner in connection with the commissioner's role as a group-wide supervisor for an internationally active insurance group as confidential and privileged.

Referred to the Committee on Banking and Insurance.

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 2524**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a two new sections, designated §30-5-35 and §30-5-36, all relating to pharmacist dispensing of drugs; permitting a pharmacist to dispense an amount equal to the prescription limit; permitting a pharmacist to provide an equal amount of drugs based upon dosage; and permitting a pharmacist to refill a prescription in an emergency.

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 2679**—A Bill to amend and reenact §17B-2-1 of the Code of West Virginia, 1931, as amended, relating to state issued identification cards; and permitting the issuance of a state issued identification card without a photo on the card, based upon certification that taking a photograph would violate religion tenet or religious belief.

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 127**, Relating to parole officers' duties to perform alcohol and drug testing of litigants.

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

**Com. Sub. for Senate Bill 127** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-12-6 of the Code of West Virginia, 1931, as amended, relating to the duty of probation officers to perform such alcohol and drug testing of litigants as directed by the circuit and family courts and reporting results to the court.

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 Bills 160, 161, 162, 163, 164, 165, 166, and 167**, DEP rule relating to emission standards for hazardous air pollutants.

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

**Com. Sub. for Senate Bill 163** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing agencies under the Department of Environmental Protection to promulgate rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from hazardous waste treatment, storage, and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements for determining conformity of transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Laws to applicable air quality implementation plans (transportation conformity); authorizing the Department of Environmental Protection to promulgate a legislative rule relating to provisions for determination of compliance with air quality management rules; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to cross-state air pollution rule to control annual nitrogen oxides emission, annual sulfur dioxide emissions, and ozone season nitrogen oxides emissions; and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards.

With the recommendation that the committee substitute 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 Jeffries, Weld, Boso, and Lindsay:**

**Senate Bill 512**—A Bill to amend and reenact §47-26-1, §47-26-2, and §47-26-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §47-26-2a, all relating to the regulation of pawnbrokers; removing an exception for certain transactions from the report required of all pawnbrokers; requiring all pawnbrokers to be equipped with certain surveillance equipment and signage; prohibiting pawnbrokers from doing business with certain persons; prohibiting pawnbrokers from purchasing certain items or transacting with certain items from anyone; creating misdemeanor offenses for certain violations; and increasing the penalties for existing criminal offenses related to pawnbrokers.

Referred to the Committee on the Judiciary.

**By Senator Cline:**

**Senate Bill 513**—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to requiring satisfactory completion of a class in personal finance to graduate from high school.

Referred to the Committee on Education.

**By Senators Sypolt, Stollings, Boso, and Maroney:**

**Senate Bill 514**—A Bill to amend and reenact §48-27-802 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §48-27-803, all relating to victims of domestic violence and their right to know the place of employment and residence of their assailant; and requiring that the West Virginia State Police shall maintain a registry of this information.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Stollings, and Boso:**

**Senate Bill 515**—A Bill to amend and reenact §48-27-207 of the Code of West Virginia, 1931, as amended, relating to requiring a licensed program for victims of domestic violence to provide specific services to aid victims of domestic violence and their children; and requiring that the Family Protection Services Board propose rules to implement program.

Referred to the Committee on the Judiciary.

**By Senators Boso, Swope, and Maroney:**

**Senate Bill 516**—A Bill to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended, relating to the payment of attorney fees in subsidized adoptions or guardianships directly to the attorney.

Referred to the Committee on the Judiciary.

**By Senators Sypolt and Boso:**

**Senate Bill 517**—A Bill to amend and reenact §20-2-15 of the Code of West Virginia, 1931, as amended, relating to allowing the owner or lessee of the lands on which damage to crops is done to sell a crop damage permit.

Referred to the Committee on Natural Resources.

**By Senators Maroney, Plymale, Stollings, Tarr, Woelfel, Takubo, and Swope:**

**Senate Bill 518**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-417, relating to restricting the sale and trade of dextromethorphan; defining terms; setting age limits; requiring proof of age from a purchaser unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be at least 25 years of age; and providing for a misdemeanor penalty.

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

**By Senators Maroney, Plymale, Stollings, Woelfel, Takubo, Boso, and Swope:**

**Senate Bill 519**—A Bill to amend and reenact §24-6-5 of the Code of West Virginia, 1931, as amended, relating to requiring persons employed to dispatch emergency calls in county emergency dispatch centers to complete a training course in emergency cardiovascular care for telephonic cardiopulmonary resuscitation; requiring training to be completed by a certain date; and requiring calls to be transferred to call center in certain circumstances.

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

**By Senators Maroney, Plymale, Stollings, Tarr, Woelfel, Takubo, Boso, Baldwin, Hardesty, and Swope:**

**Senate Bill 520**—A Bill to amend and reenact §16-5T-3 and §16-5T-4 of the Code of West Virginia, 1931, as amended, relating to drug overdoses; requiring entities report drug overdoses; requiring details for drug overdose reports; and making grammatical corrections.

Referred to the Committee on Health and Human Resources.

Senators Beach, Baldwin, Clements, Cline, Maynard, Plymale, Rucker, Smith, Woelfel, Hardesty, Sypolt, Swope, Lindsay, and Maroney offered the following resolution:

**Senate Concurrent Resolution 22**—Urging the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections in the United States.

Whereas, The Framers of the Constitution of the United States of America intended that the Congress of the United States of America should be “dependent on the people alone” (James Madison, Federalist 52); and

Whereas, That dependency has evolved from a dependency on the people alone to a dependency on powerful special interests, through campaigns or third-party groups, that has created a fundamental imbalance in our representative democracy; and

Whereas, Americans across the political spectrum agree that elections in the United States of America should be free from the disproportional influence of special interests and fair enough that any citizen can be elected into office; and

Whereas, The Constitution of the State of West Virginia states that “all power is vested in, and consequently derived from the people”, that “government is instituted for [their] common benefit”, and the people have the inalienable and indefeasible right to alter or reform their government (Article III, Sections 2 & 3); and

Whereas, Article V of the United States Constitution requires Congress to call a convention for proposing amendments to the federal Constitution on the application of two-thirds legislatures of the several states; and

Whereas, The West Virginia Legislature perceives the need for an amendments convention in order to restore balance and integrity to our elections by proposing an amendment to the federal Constitution that will permanently protect free and fair elections in America by addressing, inter alia, issues raised by the decisions of the United States Supreme Court in *Citizens United v. Federal Election Commission* (2010) 130 S. Ct. 876 and related cases and events, and desires that said convention should be so limited; and

Whereas, The State of West Virginia desires that the delegates to said convention shall be comprised equally of individuals currently elected to state and local office, or be selected by election, in each Congressional district for the purpose of serving as delegates, though all individuals elected or appointed to federal office now or in the past, be prohibited from serving as delegates to the convention, and intends to retain the ability to restrict or expand the power of its delegates within the limits expressed herein; and

Whereas, The State of West Virginia intends that this be a continuing application considered together with applications calling for a convention passed in the 2013-2014 Vermont Legislature as R454, the 2013-2014 California Legislature as Resolution Chapter 77, the 98th Illinois General Assembly as SJR 42, the 2014-2015 New Jersey Legislature as SCR 132, the 2015-2016 Rhode Island Legislature as HR 7670 and SR 2589, and all others passed, pending, and future applications until such time as two thirds of the several states have applied for a convention for a similar purpose and said convention is convened by Congress; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections in the United States; and, be it

*Further Resolved,* That the people of the State of West Virginia speaking through its Legislature, and pursuant to Article V of the United States Constitution, hereby apply to the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections as described herein, as soon as two thirds of the several states have applied for a convention for a similar purpose; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward copies of this resolution to the President of the United States; the Vice President of the United States in his capacity as presiding officer of the United States Senate; the Speaker of the United States House of Representatives; the Minority Leader of the United States House of Representatives; the President Pro Tempore of the United States Senate; to each Senator and Representative from West Virginia in the Congress of the United States with the respectful request that the full and complete text of this resolution be printed in the Congressional Record; to the presiding officers of each legislative body of each of the several states, requesting the cooperation of the states in issuing an application compelling Congress to call a convention for proposing an amendment pursuant to Article V of the U. S. Constitution.

Which, under the rules, lies over one day.

Senators Beach, Woelfel, Stollings, Baldwin, Swope, Lindsay, and Maroney offered the following resolution:

**Senate Concurrent Resolution 23**—Requesting the Division of Highways name bridge number 31-7-7.58 (31A311), locally known as Wana Bridge, carrying WV 7 over West Virginia Fork of Dunkard Creek in Monongalia County, the “Jeffrey Alan Clovis Memorial Bridge”.

Whereas, Jeffrey Alan Clovis was born January 29, 1968, and was the first child of Donald Charles Clovis and Linda Kay Tucker of Morgantown, West Virginia, and stepson to Donna Clovis and Darrell Tucker; and

Whereas, Jeffrey Alan Clovis was a 1986 graduate of Clay-Battelle High School, a member of the Loyal Order of Moose in Waynesburg, Pennsylvania, and a member of the Kingdom Evangelical Church of Westover, West Virginia; and

Whereas, Jeffrey Alan Clovis was a 27-year veteran towing operator, receiving a certification of achievement from the Towing Recovery Association of America and was certified as a Nationally Certified Master Tower; and

Whereas, Jeffrey Alan Clovis was known for his good nature and ability to make others feel comfortable in any situation while remaining vigilant in his professional responsibilities; and

Whereas, Jeffrey Alan Clovis of Wadestown, West Virginia, tragically lost his life while responding to a service call along Interstate 79 on August 9, 2016; and

Whereas, Jeffrey Alan Clovis shall be remembered on the Wall of Fallen Heroes at the International Towing and Recovery Hall of Fame in Chattanooga, Tennessee; and

Whereas, Jeffrey Alan Clovis is survived by his wife, Sheila Clovis; daughter, Jennifer Clovis; step-daughter, Skyler Johnson; brother, Brent Clovis; and step-sister, Michelle Yost; and

Whereas, It is fitting that an enduring memorial be established to commemorate Jeffrey Alan Clovis and his contributions to our state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 31-7-7.58 (31A311), locally known as Wana Bridge, carrying WV 7 over West Virginia Fork of Dunkard Creek in Monongalia County, the “Jeffrey Alan Clovis 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 “Jeffrey Alan Clovis Memorial Bridge”; 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.

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

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.

Senators Swope, Woelfel, Stollings, and Boso offered the following resolution:

**Senate Concurrent Resolution 24**—Requesting the Division of Highways name bridge number 28-11-8.67 (28A028), locally known as Montcalm Bridge, carrying County Route 11 over the Bluestone River in Mercer County, the “Hazel Dickens Memorial Bridge”.

Whereas, Hazel Dickens was born in Montcalm on June 1, 1925, as the eighth child of Sarah (Simkins) Dickens and Pastor H. N. Dickens, a Primitive Baptist Church minister and logging truck driver; and

Whereas, When she was 16, Hazel, along with her parents and some of her siblings, moved to Baltimore, Maryland, to be close to one of her brothers, who was there being treated for tuberculosis. She worked at several jobs, including waitress, store clerk, factory worker, and other odd jobs. Hazel spent her evenings playing double-bass for hillbilly and bluegrass bands in Baltimore and writing songs based on her memories of growing up in the mountains of southern West Virginia; and

Whereas, Eventually, she moved to Washington, D.C. and formed a musical partnership with Alice Gerrard. Hazel drew upon the Primitive Baptist musical tradition to develop her unique vocal style. Although slight in physical stature, Hazel sang with an unamplified voice that was strong, loud, and powerful enough to keep the faithful seated in rear pews wide awake. At the same time, the themes of the songs she authored told of the plight of working men and women, the tragedy of poverty, the strength of family love, and the power of faith; and

Whereas, In a performing career that spanned nine decades, from 1936 to her final performance on March 16, 2011, Hazel put her heart into her music and maintained her steadfast love for her West Virginia roots. She had a profound influence on other female vocalists, including Alison Krauss, Emmylou Harris, and the Judds. She also carried the story of the plight of coal miners through four songs in the soundtrack of the 1976 Academy Award-winning documentary, Harlan County USA, and sang Beautiful Hills of Galilee in a powerful graveyard scene in the 1987 movie, Matewan; and

Whereas, Hazel Dickens traveled to venues around the world where she performed to great acclaim and, following her passing on April 22, 2011 at the age of 85, her family brought her back home to Mercer County and her final resting place at Roselawn Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate Hazel Dickens and her contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 28-11-8.67 (28A028), locally known as Montcalm Bridge, carrying County Route 11 over the Bluestone River in Mercer County, the “Hazel Dickens 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 “Hazel Dickens Memorial Bridge”; and, be

*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.

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

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

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. 100) 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 324**, Relating to Commissioner of Agriculture employees.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 324) 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. 324) 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 357**, Relating generally to Division of Administrative Services.

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. 357) 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 358**, Exempting Purchasing Division purchases for equipment to maintain security at state facilities.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 358) 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 361**, Relating to Public Defender Services.

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. 361) 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. 361) 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 369**, Relating to generic drug products.

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. 369) 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 373**, Relating to financial responsibility of inmates.

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. 373) passed.

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

**Eng. Com. Sub. for Senate Bill 373**—A Bill to amend and reenact §15A-4-11 of the Code of West Virginia, 1931, as amended, relating to the financial responsibility of inmates generally; and authorizing the commissioner of corrections to deduct money from court-ordered obligations, civil judgments and settlements, including child support, restitution, spousal support, and court costs prior to depositing such moneys in the inmate's account.

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

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

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, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Facemire, Lindsay, and Romano—3.

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. 377) 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 389**, Allowing developmentally disabled person purchase base hunting license.

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. 389) 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. 389) 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 398,** Relating to compensation for senior judges.

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. 398) 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 399,** Relating to compensation for senior magistrates.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 399) 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. 399) takes effect from passage.

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

At the request of Senator Trump, unanimous consent being granted, the Senate returned to the consideration of

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

Passed by the Senate in earlier proceedings today,

The bill still being in the possession of the Senate,

Senator Trump 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. 398) 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 451,** Comprehensive education reform.

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

Pending extended discussion,

(Senator Blair in the Chair.)

Pending discussion,

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

Pending extended discussion,

(Senator Blair in the Chair.)

Pending discussion,

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

Pending discussion,

Senator Prezioso arose to a point of order stating the debate was now in contravention of Senate Rule 8 which states in part "Every member desiring to speak shall . . . [confine] oneself to the question under debate . . ." and not call out members for remarks they made previously during the debate.

Which point of order, the President ruled well taken.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 451 pass?"

Senator Roberts requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is pastor at a church with a Christian academy as well as being an administrator and a teacher at the same academy.

The Chair replied that any impact on Senator Roberts would be as a member of a class of persons and that he would be required to vote.

Senator Palumbo requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Palumbo would be as a member of a class of persons and that he would be required to vote.

Senator Mann requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as his wife is an administrator in the school system.

The Chair replied that any impact on Senator Mann would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, 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 all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 451) passed.

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

**Eng. Com. Sub. for Senate Bill 451**—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-4A-3 of said code; and to amend and reenact §29-12-5a of said code, all relating generally to comprehensive education reform; allowing public charter schools to participate in the Public Employees Insurance program; allowing county boards of education to increase their regular levy rates subject to voter approval; creating personal income tax credits for educational expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs; declaring nonseverability of act; requiring county boards to establish attendance zones; addressing the transfer and enrollment policies for students in public schools; modifying the job duties and responsibilities of school counselors; providing that central office administrators, supervisors, and directors serve at the will and pleasure of the superintendent; prohibiting accrued or equivalent instructional time to cancel days lost and the delivery of instruction through alternative methods from being used to cancel days lost due to concerted work stoppage or strike; requiring withholding of pay for each day a school is closed due to a concerted work stoppage or strike; prohibiting participation in any extracurricular activity during any day canceled due to a concerted work stoppage or strike; requiring teacher recommendation be primary consideration when considering student promotion; authorizing the establishment of charter schools; 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; limiting

liability of authorizer, county boards of education, and the State; requiring an oversight fee be paid to authorizer; 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; creating appeals process for the denial of a charter application, the nonrenewal of a charter contract, or the revocation of a charter contract; setting forth prohibitions for public charter schools; requiring State Board of Education rules relating to public charter school funding, to clarify certain requirements, and to address certain unforeseen issues; allowing charter schools access to public facilities; establishing reporting requirements; allowing charter schools to elect to participate in the State Teachers Retirement System and the Teachers' Defined Contribution Retirement System; modifying the contact requirements for a student's guardians upon accrual of unexcused absences; including professional personnel providing direct social and emotional support services to students within the definition of "professional student support personnel"; modifying definition of "net enrollment" to promote establishment of Advanced Career Education programs and establish a minimum net enrollment level of 1,400 for purpose of determining basic foundation program; clarifying definition of "levies for general current expense purposes"; modifying allowance for professional student support personnel; increasing the county allowance for current expense to 71.25 percent of the county's state average costs per square footage per student for operations and maintenance amount; setting local share maximum at 2015-2016 level; including public charter schools in provisions pertaining to an appropriation to serve certain exceptional children; enacting an Educational Savings Account Program; providing a short title and definitions; providing basic elements of an Educational Savings Account (ESA) which includes depositing funds into an ESA to pay qualifying education expenses; establishing ESA application requirements; setting forth 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; increasing salaries for teachers; increasing salaries for certain classroom teachers providing math instruction; requiring that certain classroom teachers providing math instruction and who complete a specialized mathematics course be paid a one-time salary supplement; removing definition of salary equity among the counties; removing requirement that Department of Education include in its budget request a request for funding sufficient to meet the objective of salary equity; allowing counties to provide additional compensation to certain teachers; permitting a county board of education to base its reductions in force determinations on an individual's qualifications as defined in county board policy; modifying provisions pertaining to the preferred recall list and posting of position openings; increasing salaries for service personnel; prohibiting an employee's pay from being withheld or deducted by a county board for the purpose of paying dues to certain employee organizations unless the employee within the last year has submitted a request for the withholding or deduction; providing for accrual of personal leave at the end of each pay period; requiring a bonus for classroom teachers who have not been absent for more than four days during the employment term; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance programs as the Underwood-Smith Teaching Scholars Program; modifying program purpose to target certain academic disciplines in a geographic area of critical need; requiring recipients receive additional academic support and training from certain mentors; requiring each recipient to be distinguished as an "Underwood-Smith Teaching Scholar"; modifying award eligibility, service agreement, and renewal criteria to reflect modified program purpose; 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; abolishing the Underwood-Smith Teacher Loan Assistance Program; requiring at least annual written notice of Board of Risk and Insurance Management insurance coverages by county boards to employee insureds; and

allowing public charter schools to obtain insurance coverage from the Board of Risk and Insurance Management.

*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.

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

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

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

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 154**, Using school facilities for funeral and memorial services for certain community members.

**Com. Sub. for Senate Bill 157**, Authorizing Department of Administration promulgate legislative rules.

**Com. Sub. for Senate Bill 175**, Authorizing DHHR promulgate legislative rules.

**Senate Bill 267**, Requiring State Board of Education adopt policy detailing level of computer science instruction.

**Senate Bill 343**, Relating to review and approval of state property leases.

**Com. Sub. for Senate Bill 387**, Relating generally to extradition.

And,

**Com. Sub. for Senate Bill 392**, Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 475** (*Permitting persons over age 21 operate or be passenger without helmet on motorcycle*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 2:42 p.m., the Senate adjourned until tomorrow, Tuesday, February 5, 2019, at 11 a.m.

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## **SENATE CALENDAR**

**Tuesday, February 05, 2019  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 22 - Urging Congress call convention for purpose of proposing amendment restoring free and fair elections

S. C. R. 24 - Hazel Dickens Memorial Bridge

### **SECOND READING**

Com. Sub. for S. B. 154 - Using school facilities for funeral and memorial services for certain community members

Com. Sub. for S. B. 157 - Authorizing Department of Administration promulgate legislative rules (original similar to HB2231)

Com. Sub. for S. B. 175 - Authorizing DHHR promulgate legislative rules (original similar to HB2243)

S. B. 267 - Requiring State Board of Education adopt policy detailing level of computer science instruction (original similar to HB2415)

S. B. 343 - Relating to review and approval of state property leases (original similar to HB2601)

Com. Sub. for S. B. 387 - Relating generally to extradition (original similar to HB2757)

Com. Sub. for S. B. 392 - Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work

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

### **FIRST READING**

Com. Sub. for S. B. 127 - Relating to parole officers' duties to perform alcohol and drug testing of litigants

Com. Sub. for S. B. 163 - Authorizing DEP promulgate legislative rules (original similar to HB2236)

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2019**

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**Tuesday, February 5, 2019**

10 a.m.	Transportation & Infrastructure	(Room 451M)
1 p.m.	Health & Human Resources	(Room 451M)
2 p.m.	Education	(Room 451M)