

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2018
THIRD DAY

Charleston, West Virginia, Friday, January 12, 2018

The Senate met at 11:03 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 Charles S. Trump IV, a senator from the fifteenth district.

Pending the reading of the Journal of Thursday, January 11, 2018,

At the request of Senator Prezioso, 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.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Weld as to the introduction of the members of the West Virginia Wing of the Civil Air Patrol were ordered printed in the Appendix to the Journal.

The following communication was reported by the Clerk:

The Senate of West Virginia
Charleston

Dear President Carmichael,

Since 2015, it has been an honor and a privilege to serve the citizens of southern West Virginia as their Senator. During those years, I had the ability to be part of many substantial, positive changes that have been so rewarding. More than three years ago, I chose to run for office so I could make a difference in the lives of the citizens in my district, and I believe that I have accomplished that by understanding the needs of the people of Raleigh, Wyoming, and McDowell County. They always gave me the perspective I needed to represent them.

It has been a pleasure to work closely with my colleagues in the Senate, and I can say that this great state is blessed to have a committed group of men and women who work diligently each day to make life better for all West Virginians. I feel a great deal of pride in everything we have done to put West Virginia on the map as a business-friendly state. The proof is in the legislation we have passed.

Although I remain fully committed to supporting southern West Virginia, I have come to the difficult decision that it would be best for me to resign from the West Virginia Senate, effective January 12, 2018. This was not a choice made without a great deal of thought and prayerful reflection. However, at this time my obligations to my business and my family simply must take priority. It is a pivotal time in my business as we grow throughout West Virginia and expand into other states. My focus must be on overseeing this transition, and I do not want the residents of the Ninth District to be without my full ability to represent them.

I would like to thank President Carmichael for his support throughout the last few years. He has been a solid foundation for me and I know that under his leadership great things will continue to happen. Also, thank you to my Republican colleagues for giving me the opportunity to be part of this tremendous team. It has been a pleasure.

And, finally, thank you citizens of the Ninth District for showing confidence in my ability to represent you. I have done so proudly. God bless you all and the great State of West Virginia.

Sincerely,

Jeff Mullins

The Senate proceeded to the fourth order of business.

Senator Karnes, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 130, Creating Tim Tebow Act.

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

Com. Sub. for Senate Bill 130 (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25c, relating to education; providing for the Tim Tebow Act; permitting students instructed at home, by a private tutor or enrolled in a private, parochial, or church school or a school operated by a religious order, who do not attend a school that is a member of the West Virginia Secondary School Activities Commission to participate in extracurricular activities that are under the authority of the commission at a school that is a member of the commission; providing requirements, standards, and insurance coverage; and providing that accommodating schools may not be impeded from competing against other schools.

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,

Robert Karnes,
Vice Chair.

The bill (Com. Sub. for S. B. 130), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolution were introduced, read by their titles, and referred to the appropriate committees:

By Senator Beach:

Senate Bill 255—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §17-29-15a and §17-29-15b, all relating to prohibiting transportation network company drivers from soliciting rides or occupying designated cab stands; requiring such drivers to register annually with the local county commission at the commission's discretion; and criminal penalties.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

By Senator Cline:

Senate Bill 256—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-15-51, relating to requiring motor vehicles, trailers, or semitrailers having a hydraulically operated bed to have a warning device that will alert the operator when the vehicle is in motion and the bed is in an upward position; and requiring rulemaking.

Referred to the Committee on Transportation and Infrastructure.

By Senators Azinger and Cline:

Senate Bill 257—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-31A-1, §30-31A-2, §30-31A-3, and §30-31A-4, all relating to creating the West Virginia Counseling Protection Act; prohibiting state agencies and political subdivisions from denying or restricting mental health providers from providing counseling, or any patient from receiving counseling, intended to aid patients in self-determined objectives; providing for judicial relief; providing for attorney fees and costs; providing a purpose; making findings; and defining terms.

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

By Senators Azinger and Cline:

Senate Bill 258—A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to dangerous weapons; license to carry deadly weapons; and exempting honorably discharged veterans of the armed forces of the United States from payment of fees and costs required to get a license to carry deadly weapons.

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

By Senators Jeffries, Stollings, Gaunch, Romano, and Swope:

Senate Bill 259—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, relating to clarifying the process for assessing the lowest qualified responsible bidder in government construction contracts; amending definitions; requiring the total budget for the project to be listed in the solicitation; requiring the state or its subdivisions to list any alternates in their order of preference and evaluate bids based on that order; detailing how the base bid and

the alternates shall be evaluated in order to determine a neutral low bidder; eliminating the ability of the state or its subdivisions to select alternates out of order to reach a favored bidder; and reorganizing certain requirements in current code for clarity purposes.

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

By Senators Beach and Romano:

Senate Bill 260—A Bill to amend and reenact §17A-3-23 of the Code of West Virginia, 1931, as amended, relating to requiring state-owned or -leased vehicles be subject to registration requirements; requiring that state-owned or -leased vehicles have current registration; and requiring state-owned or -leased vehicles bear plates that indicate current registration.

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

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

Senate Bill 261—A Bill to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7, §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13, and §31-18D-14 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend and reenact §31-18-3, §31-18-6, and §31-18-22 of said code; and to amend said code by adding thereto a new section, designated §31-18-20d, all relating to the transfer of certain powers and programs of the West Virginia Affordable Housing Trust Fund to the West Virginia Housing Development Fund; eliminating the West Virginia Affordable Housing Trust Fund and the West Virginia Affordable Housing Trust Fund Board of Directors; creating Affordable Housing Fund of the West Virginia Housing Development Fund and providing for uses therefor; providing for assessment of fee on all sales by licensed dealers of factory-built homes to be deposited in Affordable Housing Fund of the West Virginia Housing Development Fund; providing for assessment of fee upon the privilege of transferring real estate for consideration to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; defining “Affordable Housing Fund”; authorizing West Virginia Housing Development Fund to provide funding to increase the capacity of nonprofit community housing organizations; providing for uses of funds in Affordable Housing Fund; and providing for disposition of Affordable Housing Fund in the event of termination or dissolution of West Virginia Housing Development Fund.

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

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

Senate Bill 262—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-4b, relating to providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a pay equity salary adjustment.

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

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

Senate Bill 263—A Bill to amend and reenact §11-13X-13 of the Code of West Virginia, 1931, as amended, relating to the elimination of film tax credits; preserving rights to all previously issued

film tax credits; ceasing operations of the West Virginia Film Office; and transferring certain duties of the West Virginia Film Office to the Division of Tourism.

Referred to the Committee on Finance.

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

Senate Bill 264—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-15-30a, all relating generally to consumers sales and service tax; eliminating the refundable exemption for road construction contractors; prohibiting the transfer of revenues collected from the state's consumers sales and service tax and the state's use tax to the State Road Fund; requiring the Tax Commissioner to transfer \$12.5 million collected pursuant to the state's consumers sales and service tax via the General Revenue Fund to the State Road Fund by June 15 of each fiscal year; making technical corrections; and specifying the effective date.

Referred to the Committee on Finance.

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

Senate Bill 265—A Bill to amend and reenact §11-24-3 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; and specifying effective dates.

Referred to the Committee on Finance.

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

Senate Bill 266—A Bill to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating to updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act; providing rule for determining number of personal exemptions; and specifying effective dates.

Referred to the Committee on Finance.

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

Senate Bill 267—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-2 and §18A-4-8a of said code, all relating to increasing certain state employees' salaries; increasing the annual salaries of members of the West Virginia State Police; increasing the annual salaries of public school teachers; and increasing the annual salaries of school service personnel.

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

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

Senate Bill 268—A Bill to amend and reenact §19-12A-1a, §19-12A-5, and §19-12A-6 of the Code of West Virginia, 1931, as amended, all relating to eliminating the requirement that the Division of Corrections and the Bureau for Public Health purchase commodities produced on institutional farms from the Department of Agriculture.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

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

Senate Bill 269—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-8-1, §5B-8-2, §5B-8-3, §5B-8-4, §5B-8-5, §5B-8-6, §5B-8-7, §5B-8-8, and §5B-8-9, all relating to establishing the 2018 Regulatory Reform Act; providing legislative findings; defining terms; providing for an application process with the Development Office to request a project be classified as a project of critical economic concern; encouraging state agencies to provide for expeditious review of a license or permit application even absent a designation as a project of critical economic concern; establishing a procedure for the filing of a certificate of critical economic concern with state agencies and the Development Office; providing for agencies to adopt an expedited license and permit fee; providing for timelines, reports, and written explanations for expedited license and permit review; clarifying a certificate of critical concern is not a blanket waiver and does not guarantee a license or permit will be granted; requiring the executive director to report to the Governor and the Joint Committee on Government and Finance on or before November 1, 2019, and on or before every November 1 thereafter regarding the success of this article; and granting the Development Office with procedural rule-making authority to implement the provisions of this article.

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

By Senator Ojeda:

Senate Joint Resolution 6—Proposing an amendment to the Constitution of the State of West Virginia, amending article VI thereof by adding thereto a new section, designated 51a, relating to authorizing legislative oversight of the judiciary budget proposal; allowing the Legislature to decrease or increase judiciary budget line items; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Plymale.

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

At the request of Senator Romano, unanimous consent being granted, the Senate returned to the eleventh order of business and the introduction of guests.

At the request of Senator Rucker, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant the Honorable Alex Mooney, United States House of Representatives member for West Virginia's second congressional district, privileges of the floor for the day.

On motion of Senator Ferns, leaves of absence for the day were granted Senators Maroney, Unger, Smith, and Takubo.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Ferns, at 11:22 a.m., the Senate adjourned until Monday, January 15, 2018, at 11 a.m.

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Monday, January 15, 2018

3 p.m.

Finance

(Room 451M)