

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2019
ONE HUNDRED THIRTY-SIXTH DAY

Charleston, West Virginia, Tuesday, July 23, 2019

Pursuant to the call of the President of the Senate, under the authority of House Concurrent Resolution 101, adopted March 10, 2019, the Senate reassembled in extraordinary session in its chamber in the state capitol in the City of Charleston, at 12:12 p.m., and was called to order by its President, the Honorable Mitch Carmichael.

Prayer was offered by the Honorable Gregory L. Boso, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Donna J. Boley, a senator from the third district.

Pending the reading of the Journal of Monday, June 24, 2019,

At the request of Senator Hardesty, 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.

At the request of Senator Weld, and by unanimous consent, the Senate proceeded to the sixth order of business.

Senators Plymale, Woelfel, Carmichael (Mr. President), Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, and Weld offered the following resolution:

Senate Resolution 106—Memorializing the life of the Honorable Robert R. Nelson, veteran, former mayor of the City of Huntington, former member of the West Virginia House of Delegates, former member of the West Virginia Senate, and dedicated public servant.

Whereas, The Honorable Robert R. Nelson was born and raised in Whitesville, West Virginia, in the coal camp of Blue Pennant, the son of Joda F. and Opal W. Nelson; and

Whereas, The Honorable Robert R. Nelson graduated from Sherman High School in Boone County before serving in the United States Marine Corps from 1953-1957; and

Whereas, The Honorable Robert R. Nelson graduated from Marshall University with a Bachelor of Arts degree in Political Science in 1960, and would later earn his Master of Arts degree in Political Science in 1967; and

Whereas, The Honorable Robert R. Nelson was elected to the West Virginia House of Delegates in 1964 and served three terms, until his election to the West Virginia Senate in 1970, where he served four terms. While in the Senate, he served as Senate President Pro Tempore and on the Committees on Energy, Industry, and Mining, Government Organization, Military, Transportation and Infrastructure, Education, the Judiciary, and as Chairman of the Committee on Finance; and

Whereas, During his tenure in the West Virginia Legislature, the Honorable Robert R. Nelson was known as the “Voice of Marshall University”, sponsoring legislation that would lead to the construction of the Cam Henderson Center and then Marshall Stadium (now Joan C. Edwards Stadium). He also helped secure funds for the Marshall Library, Smith Hall, and the Memorial Student Center; and

Whereas, The Honorable Robert R. Nelson was elected as the 67th mayor of Huntington in 1985. Among his many accomplishments while holding that office was the founding of the Carter G. Woodson Memorial Foundation to honor the Father of Black History, who grew up in Huntington; and

Whereas, The Honorable Robert R. Nelson was a professor of Political Science and History at Marshall University and served as a student liaison and instructor of a Marshall University internship program in which students were placed throughout state government at the Capitol in Charleston as part of their college instruction; and

Whereas, For his contributions to the campus as a student; for his lifetime of dedication to Marshall, Huntington, and the state of West Virginia; and for his generosity in devoting his time and effort to local agencies, community causes, and students across the state, the Honorable Robert R. Nelson was recognized as the Marshall University College of Liberal Arts Distinguished Alumnus for 2017; and

Whereas, Sadly, the Honorable Robert R. Nelson passed away on March 14, 2019, ending an extraordinary life of public service and leaving behind a host of family and friends, all of whom will miss him dearly; and

Whereas, It is fitting that the Senate pay tribute to the life and legacy of the Honorable Robert R. Nelson for his many contributions to his community, state, and nation; therefore, be it

Resolved by the Senate:

That the Senate hereby memorializes the life of the Honorable Robert R. Nelson, veteran, former mayor of the City of Huntington, former member of the West Virginia House of Delegates, former member of the West Virginia Senate, and dedicated public servant; and, be it

Further Resolved, That the Senate extends its most sincere condolences to the family of the Honorable Robert R. Nelson on his passing; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the family of the Honorable Robert R. Nelson.

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 Prezioso, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Senate Resolution 106 were ordered printed in the Appendix to the Journal.

On motion of Senator Weld, at 12:26 p.m., the Senate recessed to present Senate Resolution 106.

The Senate reconvened at 12:28 p.m. and resumed business under the sixth order.

Senators Plymale, Woelfel, and Stollings offered the following resolution:

Senate Resolution 107—Recognizing Hunter Donahoe and Gabe Yeoman for winning first place in Additive Manufacturing at the SkillsUSA National Leadership and Skills Conference.

Whereas, The SkillsUSA National Leadership and Skills Conference (NLSC) showcases the best talent in career and technical education students from across the country, and United States territories, including Puerto Rico and the U.S. Virgin Islands; and

Whereas, Spring Valley High School students, Hunter Donahoe and Gabe Yeoman, won the state competition which was held at Fairmont State University, and advance to the national competition; and

Whereas, The SkillsUSA National Leadership and Skills Conference took place in Louisville, Kentucky, during the week of June 24-29, 2019, where the competition mimicked automating the process of placing a logo on a car bumper on an assembly line. Students employed their skills in 3D printing and robotics to be successful at this challenge; and

Whereas, Hunter Donahoe and Gabe Yeoman demonstrated their talents and the perfection of their craft in this prestigious national skills competition which propelled them to winning first place; and

Whereas, Hunter Donahoe and Gabe Yeoman are a shining example to all West Virginians of what can be accomplished with hard work, dedication, and commitment; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes Hunter Donahoe and Gabe Yeoman for winning first place in Additive Manufacturing at the SkillsUSA National Leadership and Skills Conference; and, be it

Further Resolved, That the Senate commends Hunter Donahoe and Gabe Yeoman on their outstanding accomplishment and wishes them success on their bright future ahead; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Hunter Donahoe and Gabe Yeoman.

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 Boso, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Senate Resolution 107 were ordered printed in the Appendix to the Journal.

On motion of Senator Weld, at 12:33 p.m., the Senate recessed to present Senate Resolution 107.

The Senate reconvened at 12:36 p.m. and, at the request of Senator Weld, unanimous consent being granted, returned to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 25th day of June, 2019, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 118), Relating to the use of post-criminal conduct in professional and occupational initial licensure decision making.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 28th day of June, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 1015), Supplemental appropriation to Secretary of State, General Administrative Fees Account.

(S. B. 1017), Supplemental appropriation to Department of Arts, Culture, and History, Educational Broadcasting Authority.

(S. B. 1020), Supplementing and amending Chapter 31, Acts of the Legislature, 2019, known as Budget Bill.

(S. B. 1021), Decreasing existing appropriation and adding appropriation to Department of Veterans' Assistance.

(S. B. 1023), Supplementing, amending, increasing, and adding items of appropriations to Attorney General, Consolidated Federal Fund.

(S. B. 1024), Supplemental appropriation to Department of Agriculture Capital Improvements Fund.

(S. B. 1025), Supplemental appropriation to DHHR, Division of Human Services for fiscal year ending June 30, 2019.

(S. B. 1027), Adding new items and increasing existing items to various accounts.

(S. B. 1038), Supplemental appropriation to DHHR, Division of Health's Central Office.

(H. B. 113), Establishing tax incentive for new business activity in qualified opportunity zones.

(H. B. 144), West Virginia Business Ready Sites Program.

(H. B. 146), Establishing and funding of substance use disorder treatment and recovery facilities.

(H. B. 148), Making a supplementary appropriation to the Executive, Governor's Office.

(H. B. 149), Making a supplementary appropriation to the Executive, Governor's Office, Civil Contingent Fund.

(H. B. 150), Making a supplementary appropriation to the Department of Revenue, Office of the Secretary, Home Rule Board Operations Fund.

(H. B. 151), Making a supplementary appropriation to the Department of Arts, Culture and History, Division of Culture and History, Lottery Education Fund.

(H. B. 152), Making a supplementary appropriation by adding a new item and increasing the expenditure to the Department of Revenue, State Budget Office.

(H. B. 153), Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health, Central Office.

(H. B. 154), Making a supplementary appropriation to the Department of Transportation, Division of Highways.

(Com. Sub. for H. B. 155), Supplementing, amending and increasing an item from the State Road Fund to the Department of Transportation, Division of Highways.

(H. B. 156), Making a supplementary appropriation to the Department of Environmental Protection, Division of Environmental Protection.

(H. B. 157), Making a supplementary appropriation to the Department of Military Affairs and Public Safety, Division of Homeland Security and Emergency Management.

And,

(H. B. 206), Relating to public education.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Without objection, the Senate returned to the third order of business.

Executive Communications

The Clerk then presented communications from His Excellency, the Governor, advising that on June 28, 2019, he had approved **Enr. Senate Bill 1015, Enr. Senate Bill 1017, Enr. Senate Bill 1020, Enr. Senate Bill 1021, Enr. Senate Bill 1023, Enr. Senate Bill 1024, Enr. Senate Bill 1025, Enr. Senate Bill 1027, Enr. Senate Bill 1038, Enr. House Bill 113, Enr. House Bill 118, Enr. House Bill 144, Enr. House Bill 146, Enr. House Bill 148, Enr. House Bill 149, Enr. House Bill 150, Enr. House Bill 151, Enr. House Bill 152, Enr. House Bill 153, Enr. House Bill 154, Enr. Committee Substitute for House Bill 155, Enr. House Bill 156, Enr. House Bill 157, and Enr. House Bill 206.**

Senator Carmichael (Mr. President) then laid before the Senate the following supplement to the proclamation dated March 7, 2019, from His Excellency, the Governor, which was read by the Clerk:

**STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT**

Charleston

A PROCLAMATION

By the Governor

I, **JIM JUSTICE**, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby **AMEND** the proclamation dated the seventh day of March, Two Thousand Nineteen, calling the West Virginia Legislature to convene in Extraordinary Session upon adjournment *sine die* of the 2019 Regular Session, and amended by subsequent Proclamation dated the seventeenth day of May, Two Thousand Nineteen, and amended by subsequent Proclamation dated the twentieth day of May, Two Thousand Nineteen, and amended by subsequent Proclamation dated the thirty-first day of May, Two Thousand Nineteen, and amended by subsequent Proclamation dated the fourteenth day of June, Two Thousand Nineteen, by adding items forty-seven through fifty, as follows:

FORTY-SEVENTH: a bill to exempt from the business and occupation tax certain merchant power plants; and

FORTY-EIGHTH: a bill relating to residency requirements for licenses issued by the West Virginia Alcohol Beverage Control Administration, West Virginia Department of Health and Human Resources, and West Virginia Lottery Commission; and

FORTY-NINTH: a resolution relating to the issuance of State Road Bonds authorized to be issued for fiscal years ending June 30, 2019 and June 30, 2020, in conjunction with the Roads to Prosperity Amendment of 2017; and

FIFTY: a resolution relating to the issuance of State Road Bonds authorized to be issued for fiscal year ending June 30, 2021, in conjunction with the Roads to Prosperity Amendment of 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this nineteenth day of July, in the year of our Lord, Two Thousand Nineteen, and in the One Hundred Fifty-Seventh year of the State.

GOVERNOR

SECRETARY OF STATE

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage , of

Eng. Senate Bill 1056, Supplementing and amending items of appropriation to State Board of Education, State Aid to Schools.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 1057, Supplementing and amending items of appropriation to State Board of Education.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 1058, Supplementing and amending item of appropriation to Higher Education Policy Commission.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, to take effect from passage, of

Eng. House Bill 132, Supplementing and amending existing items of appropriations to the Department of Agriculture.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended with its Senate amended title, to take effect from passage, of

Eng. Com. Sub. for House Bill 193, Relating to a statewide school personnel job bank.

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 207—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13-2q, relating to exempting from business and occupation tax certain merchant power plants; defining merchant power plant; specifying conditions for exemption from tax; and specifying effective date.

At the request of Senator Weld, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Weld, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Azinger, Mann, Maroney, Takubo, Trump, and Woelfel—6.

The bill was read a second time and ordered to third reading.

Having been engrossed, the bill (Eng. H. B. 207) was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 207 pass?”

Senator Smith 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 Smith 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: Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Azinger, Mann, Maroney, Takubo, Trump, and Woelfel—6.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 207) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

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

House Concurrent Resolution 104—Providing for the issuance of not to exceed \$600 million of bonds pursuant to the Roads to Prosperity Amendment of 2017 and §17-26A-1 *et seq.* of the Code of West Virginia.

Resolved by the Legislature of West Virginia:

That state road bonds in the principal amount not to exceed \$600 million are authorized to be sold by the Governor during the fiscal year ending June 30, 2020 which includes the \$400 million authorized to be issued in the fiscal year ending June 30, 2019 but not issued and which are hereby carried forward to the fiscal year ending June 30, 2020. The bonds shall be issued in registered form and may be issued by the Governor in such amounts and in one or more series, in such denominations, at such times during that fiscal year and bearing the date or dates as the Governor may determine; and, be it

Further Resolved, That all bonds shall be payable at the Office of the Treasurer of the State of West Virginia or at a paying agent designated by the Treasurer. The bonds shall be dated and mature on dates and at times as the Governor shall determine. The bonds shall bear interest at rates not exceeding six percent (6.00%) per annum, payable semiannually. The Treasurer of the State of West Virginia shall issue his or her check for the interest and principal then due on the

same dates each year and mail it to the registered owner at the addresses shown by the record of registration or shall provide the requisite funds by electronic means acceptable to the public municipal finance industry. The bonds may be redeemable on a date or dates prior to maturity as determined by the Governor; and, be it

Further Resolved, That the bonds shall be signed on behalf of the State of West Virginia as provided under §17-26A-2 of the Code of West Virginia; and, be it

Further Resolved, That the Governor shall sell the bonds herein mentioned at a time or times during the fiscal year as he may determine necessary to provide funds for matching available federal funds for highway and bridge construction and for general highway and secondary roads and bridge construction or improvements in this state, as herein provided, upon recommendation of the Commissioner of Highways; and, be it

Further Resolved, That the proceeds of all sales of bonds herein authorized shall be paid into the State Road Fund created by §17-3-1 of the Code of West Virginia, 1931, as amended, and used for the purposes set forth in §17-26A-1 *et seq.* of said code and in the Roads to Prosperity Amendment of 2017; and, be it

Further Resolved, That this resolution constitutes affirmative official intent of the State of West Virginia toward the issuance of the bonds as contemplated herein in accordance with the purposes of the laws of the State of West Virginia and the United States Internal Revenue Code and the regulations issued thereunder. The State of West Virginia reasonably expects, as of the date thereof, to timely reimburse the State Road Fund for certain costs of the highway and bridge projects described above paid from the State Road Fund prior to the issuance of the bonds with the proceeds of the bonds.

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

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.

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

House Concurrent Resolution 105—Providing for the issuance of not to exceed \$200 million of bonds after July 1, 2020 pursuant to the Roads to Prosperity Amendment of 2017 and §17-26A-1 *et seq.* of the Code of West Virginia.

Resolved by the Legislature of West Virginia:

That state road bonds in the principal amount not to exceed \$200 million are authorized to be sold by the Governor during the fiscal year ending June 30, 2021. The bonds shall be issued in registered form and may be issued by the Governor in such amounts and in one or more series, in such denominations, at such times during that fiscal year and bearing the date or dates as the Governor may determine; and, be it

Further Resolved, That all bonds shall be payable at the Office of the Treasurer of the State of West Virginia or at a paying agent designated by the Treasurer. The bonds shall be dated and

mature on dates and at times as the Governor shall determine. The bonds shall bear interest at rates not exceeding six and one-half percent (6.50%) per annum, payable semiannually. The Treasurer of the State of West Virginia shall issue his or her check for the interest and principal then due on the same dates each year and mail it to the registered owner at the addresses shown by the record of registration or shall provide the requisite funds by electronic means acceptable to the public municipal finance industry. The bonds may be redeemable on a date or dates prior to maturity as determined by the Governor; and, be it

Further Resolved, That the bonds shall be signed on behalf of the State of West Virginia as provided under §17-26A-2 of the Code of West Virginia; and, be it

Further Resolved, That the Governor shall sell the bonds herein mentioned at a time or times during the fiscal year as he may determine necessary to provide funds for matching available federal funds for highway and bridge construction and for general highway and secondary roads and bridge construction or improvements in this state, as herein provided, upon recommendation of the Commissioner of Highways; and, be it

Further Resolved, That the proceeds of all sales of bonds herein authorized shall be paid into the State Road Fund created by §17-3-1 of the Code of West Virginia, 1931, as amended, and used for the purposes set forth in §17-26A-1 et seq. of said code and in the Roads to Prosperity Amendment of 2017; and, be it

Further Resolved, That this resolution constitutes affirmative official intent of the State of West Virginia toward the issuance of the bonds as contemplated herein in accordance with the purposes of the laws of the State of West Virginia and the United States Internal Revenue Code and the regulations issued thereunder. The State of West Virginia reasonably expects, as of the date thereof, to timely reimburse the State Road Fund for certain costs of the highway and bridge projects described above paid from the State Road Fund prior to the issuance of the bonds with the proceeds of the bonds.

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

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.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Baldwin.

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

At the request of Senator Weld, unanimous consent being granted, leaves of absence for the day were granted Senators Azinger, Mann, Maroney, Takubo, Trump, and Woelfel.

On motion of Senator Weld, at 12:55 p.m., the Senate adjourned until subsequently called back into session by the presiding officer.
