

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2018
FIFTEENTH DAY

Charleston, West Virginia, Wednesday, January 24, 2018

The Senate met at 11:15 a.m.

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

Prayer was offered by Pastor Thomas Price, Roxalana Gospel Tabernacle, Dunbar, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable C. Edward Gaunch, a senator from the eighth district.

Pending the reading of the Journal of Tuesday, January 23, 2018,

At the request of Senator Karnes, 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 Ferns, 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 students from Teays Valley Christian School's StandWatch Academy privileges of the floor for the day.

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2028—A Bill to amend and reenact §14-2-2 of the Code of West Virginia, 1931, as amended, relating to the venue for suits and other actions against the state; allowing a plaintiff or petitioner to file a claim or petition against the state, a state officer, or state agency in the circuit court of a county in which the plaintiff or petitioner resides or in which a claim arose or, alternatively, in the circuit court of Kanawha County.

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 7, Requiring employee to provide written notice to employer of nonpayment of wages.

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

Com. Sub. for Senate Bill 7 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §21-5-1 and §21-5-12 of the Code of West Virginia, 1931, as amended, relating to claims under the Wage Payment and Collection Act; defining the term “wages”; providing that no action may be brought for collection of accrued fringe benefits until written notice is provided by the employee, or his or her representative, to the employer; providing written notice requirements; providing mailing requirements; providing the employer an opportunity to cure the alleged violation; providing for expiration of the cure offer and cure period; providing a period for employer to remit payment as specified in the accepted cure offer; providing that a claim may be brought for failure of the employer to timely effect the accepted cure offer; providing that the statute of limitations shall be tolled; providing that the written notice is a jurisdictional prerequisite for accrued fringe benefit claims; providing an effective date; providing that the notice requirement is not applicable to claims exclusively for unpaid wages; requiring employers to notify their employees of the notice requirement; providing means of notice to employees; requiring the commissioner to issue rules to the extent necessary to effectuate employee notice; and providing that plaintiff is not entitled to liquidated damages or costs and attorneys’ fees under certain circumstances.

And,

Senate Bill 51, Modifying law governing spousal support and child custody.

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

Com. Sub. for Senate Bill 51 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §48-6-301 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-9-205 and §48-9-206 of said code, all relating to domestic relations; removing language related to child support from code section governing the awarding of spousal support and separate maintenance; directing court to consider certain factors to decide amount and duration of spousal support and separate maintenance; removing the 24-month time frame for a description of the allocation of caretaking and other parenting responsibilities performed from the matters contained in permanent parenting plan; clarifying that the court may accommodate the preferences of a child 14 years of age and older, if the court determines it is in the best interests of the child; directing court to allocate custodial responsibility so that custodial time spent with each parent achieves certain objectives; directing courts to consider which parent will encourage and accept a positive relationship between child and other parent and which parent is more likely to keep other parent involved in child’s life and activities; and eliminating language prohibiting court from considering divisions of functions arising from temporary arrangements after separation in determining proportion of caretaking functions each person previously performed for child.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 47, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Health and Human Resources.

Respectfully submitted,

Ryan W. Weld,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Health and Human Resources, with an amendment from the Committee on Military pending.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 66, Relating to in-state tuition rates for members of National Guard, military and reserve units.

And reports the same back with the recommendation that it do pass; but under the original triple committee reference first be referred to the Committee on Education; and then to the Committee on Finance.

Respectfully submitted,

Ryan W. Weld,
Chair.

The bill, under the original triple committee reference, was referred to the Committee on Education; and then to the Committee on Finance.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 71, Defining “veteran” as it pertains to veteran-owned business.

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

Com. Sub. for Senate Bill 71 (originating in the Committee on Military)—A Bill to amend and reenact §59-1-2a of the Code of West Virginia, 1931, as amended, relating to defining the term “veteran” as that term pertains to veteran-owned businesses.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Ryan W. Weld,
Chair.

The bill (Com. Sub. for S. B. 71), under the original double committee reference, was then referred to the Committee on Government Organization.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 271, Creating centralized Shared Services Section of Department of Administration.

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

Com. Sub. for Senate Bill 271 (originating in the Committee on Government Organization)—A Bill to amend and reenact §5A-2-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5A-2B-1, §5A-2B-2, §5A-2B-3, and §5A-2B-4, all relating to creating the Shared Services Section within the Finance Division of the Department of Administration; authorizing the appointment of a deputy director; setting qualifications for the deputy director; authorizing the hiring of necessary personnel; setting minimum services to be provided by Shared Services Section; authorizing reasonable fees to be charged; requiring development of cost-performance assessment; providing for reporting of certain information by spending units to the Shared Services Section; providing for reports to the Governor and Joint Committee on Government and Finance; providing legislative and emergency rule-making authority; requiring certain spending units to enter into agreement with Shared Services Section for provision of accounting and financial services; permitting certain spending units to enter into agreement with Shared Services Section for provision of accounting and financial services; providing for probationary period and corrective action plan for certain spending units; granting deputy director authority to decline to enter into agreement for provision of services under certain circumstances; authorizing spending unit to cancel agreement with Shared Services Section under certain circumstances; and creating a new special revenue fund.

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,

C. Edward Gaunch,
Chair.

The bill (Com. Sub. for S. B. 271), under the original double committee reference, was then referred to the Committee on Finance.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 280, Allowing airports' emergency management and operations vehicles to use red flashing warning lights.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

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

Your Committee on Education has had under consideration

Senate Bill 284, Increasing access to career education and workforce training.

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

Com. Sub. for Senate Bill 284 (originating in the Committee on Education)—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; establishing Advanced Career Education (ACE) programs and pathways; providing that certain individuals who have completed a secondary education program in a public, private, or home school shall be considered adults enrolled in regular secondary programs for funding purposes; requiring community and technical colleges establish partnerships with career technical education centers, county boards of education, or both, that provide for ACE programs; providing requirements for ACE programs and pathways; requiring the Board of Education and the West Virginia Council for Community and Technical College Education promulgate joint guidelines; requiring the Division of Vocational Education and the council maintain and annually report certain information; providing that community and technical colleges and career technical education centers shall participate in one or more ACE partnerships

in order to receive certain funding; establishing the WV Invests Grant Program; defining terms; authorizing the council to award WV Invests grants under certain terms and conditions; requiring the council to report certain information on the WV Invests Grant Program; requiring the council to propose legislative rules; providing eligibility and renewal requirements for a WV Invests grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.

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,

Kenny Mann,
Chair.

The bill (Com. Sub. for S. B. 284), under the original double committee reference, was then referred to the Committee on Finance.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 295, Relating to Local Powers Act.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 307, Declaring “boot drive” on state highway or roadway by volunteer fire department is not obstruction or nuisance.

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

Com. Sub. for Senate Bill 307 (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17-16-1 of the Code of West Virginia, 1931, as amended, relating to declaring that fundraising conducted by a volunteer fire department on a state highway or roadway within the boundaries of a municipality is not an obstruction or nuisance.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill (Com. Sub. for S. B. 307), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 336, Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Ryan W. Weld,
Chair.

The bill, 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 were introduced, read by their titles, and referred to the appropriate committees:

By Senators Cline, Romano, Baldwin, and Weld:

Senate Bill 352—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-6-15, relating to the creation of emergency text number systems for children; and declaring that this be known as Constance's Law.

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

By Senators Trump, Weld, and Takubo:

Senate Bill 353—A Bill to amend and reenact §11-16-3, §11-16-5, §11-16-6a, §11-16-6b, and §11-16-9 of the Code of West Virginia, 1931, as amended, all relating to creating a temporary license for nonintoxicating beer floor plan extensions of existing licensee floorplans; implementing a fee for the new license; implementing a reactivation fee for licensees that fail to timely file their renewal applications and pay their license fees; removing the two growler limit per patron per day for licensees who sell growlers for off premises consumption; and creating a sampling for retailers authorized to sell growlers.

Referred to the Committee on the Judiciary.

By Senators Trump, Weld, Takubo, Ferns, Cline, and Boso:

Senate Bill 354—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b, relating to creating a one-day special license for charitable events to purchase and sell nonintoxicating beer and nonintoxicating craft beer.

Referred to the Committee on the Judiciary.

By Senators Gaunch and Blair:

Senate Bill 355—A Bill to repeal §5A-7-1, §5A-7-2, §5A-7-3, §5A-7-4, §5A-7-4a, §5A-7-5, §5A-7-6, §5A-7-7, §5A-7-8, §5A-7-9, §5A-7-10, and §5A-7-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-6-4 and §5A-6-8 of said code; and to amend said code by adding thereto two new sections, designated §5A-6-4d and §5A-6-4e, all relating to dissolving the Information Services and Communications Division; authorizing the Chief Technology Officer to provide training and other services and to assess fees for services provided; requiring the Chief Technology Officer to oversee telecommunications services to state spending units; requiring the Chief Technology Officer to supervise and maintain the central mailing office; directing the deposit of any moneys received for services; creating a special revenue account for administration of telecommunications services; authorizing the Chief Technology Officer to review and pay uncontested amounts due for telecommunications services; providing a process for state spending units to contest amounts due; authorizing the Chief Technology Officer to invoice spending units for amounts paid on behalf of the spending unit; authorizing the Secretary of the Department of Administration to make a final decision on contested amounts due; authorizing the secretary to direct the transfer of funds into the special revenue account for unpaid telecommunications services; authorizing the secretary to assess a penalty with notice on spending units for unpaid amounts for telecommunications services; authorizing a special fund to receive moneys for services provided by the agency; and authorizing the Chief Technology Officer to grant waivers for certain services required by statute.

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

By Senator Trump:

Senate Bill 356—A Bill to amend and reenact §7-4-4 and §7-4-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-7-2 of said code; to amend and reenact §7-10-2 of said code; to amend and reenact §15-11-2 of said code; to amend and reenact §15-2-15 of said code; to amend and reenact §15-2C-1 of said code; to amend and reenact §15-9-3 of said code; to amend and reenact §15-11-2 of said code; to amend and reenact §16-2F-2 of said code; to amend and reenact §16-3C-1 of said code; to amend and reenact §16-9A-3 of said code; to amend and reenact §16-30-3 of said code; to amend and reenact §16-47-5 of said code; to amend and reenact §17C-5-6a of said code; to amend and reenact §18-5-15c of said code; to amend and reenact §18-8-6a of said code; to amend and reenact §18A-5-1d of said code; to amend and reenact §28-1-2 of said code; to amend and reenact §29-21-16 of said code; to amend and reenact §31-20-2 of said code; to amend and reenact §33-4-20 of said code; to amend and reenact §48-9-205 and §48-9-301a of said code; to amend and reenact §48-22-301 of said code; to amend and reenact §48-26-701 and §48-26-1002 of said code; to amend and reenact §48-27-403 of said code; to amend and reenact §49-1-201 of said code; to amend and reenact §51-2A-2 of said code; to amend and reenact §51-7-8 of said code; to amend and reenact §61-2-14h of said code; to amend and reenact §61-5-12b of said code; to amend and reenact §61-6-25 of said code; to amend and reenact §61-7-8 of said code; to amend and reenact §61-8-12 of said code;

to amend and reenact §61-8B-11a of said code; to amend and reenact §61-8C-3b of said code; to amend and reenact §61-8D-9 of said code; to amend and reenact §61-11-23 of said code; to amend and reenact §61-12-10 of said code; and to amend and reenact §62-6B-5, all relating to making technical corrections in the code when referencing chapter 49 of this code; and defining a term.

Referred to the Committee on the Judiciary.

By Senator Blair:

Senate Bill 357—A Bill to amend and reenact §29-22B-503, §29-22B-504, §29-22B-903, and §29-22B-1408 of the Code of West Virginia, 1931, as amended, all relating generally to limited video lottery; allowing operators to be retailers at up to 10 licensed locations with certain exceptions; increasing the maximum wager permitted per limited video lottery game; removing restrictions on bill denominations accepted by limited video lottery terminals; and fixing the state's share of gross terminal income at 50 percent on July 1, 2018.

Referred to the Committee on Finance.

By Senator Trump:

Senate Bill 358—A Bill to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended, relating to definitions related to costs in criminal proceedings in magistrate court.

Referred to the Committee on the Judiciary.

By Senators Trump, Unger, and Weld:

Senate Bill 359—A Bill to amend and reenact §27-5-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Supreme Court to establish curricula for mental hygiene commissioners and those magistrates designated by the chief judge of a judicial circuit to hold probable cause and emergency detention hearings involving involuntary hospitalization.

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

By Senator Clements:

Senate Bill 360—A Bill to amend and reenact §22-6-8 of the Code of West Virginia, 1931, as amended, relating to oil and gas permits not to be on flat well royalty leases; legislative findings and declarations; and permit requirements.

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

By Senator Trump:

Senate Bill 361—A Bill to amend and reenact §62-15-6a of the Code of West Virginia, 1931, as amended, relating to treatment supervision under the Drug Offender Accountability and Treatment Act; including addition of the Administrative Office of the Supreme Court of Appeals, along with the Division of Justice and Community Services, to consult with the Governor's Advisory Council on Substance Abuse to use appropriated funds to develop proposed substance abuse treatment plans to serve those offenders under treatment supervision in each judicial circuit and on parole supervision; and including the Administrative Office of the Supreme Court of Appeals, along with the Division of Justice and Community Services, in developing qualifications and other matters related to the quality and delivery of services to offenders.

Referred to the Committee on the Judiciary.

By Senators Trump, Baldwin, and Cline:

Senate Bill 362—A Bill to amend and reenact §49-1-201 of the Code of West Virginia, 1931, as amended, relating to definitions related, but not limited to, child abuse and neglect.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 363—A Bill to amend and reenact §27-5-2 of the Code of West Virginia, 1931, as amended, relating to making a technical correction by removing a requirement of a finding of professional negligence as it concerns involuntary hospitalizations.

Referred to the Committee on the Judiciary.

By Senators Mann, Karnes, Rucker, Gaunch, Azinger, Swope, Takubo, and Cline:

Senate Bill 364—A Bill to amend and reenact §18-8-11 of the Code of West Virginia, 1931, as amended, relating to allowing a parent or legal guardian of a homeschooled child to provide a signed statement in lieu of a driver eligibility certificate by the attendance director or chief administrator affirming that the child is being educated in accordance with law and is making satisfactory academic progress and meets certain conditions to be eligible to obtain a permit or license for operation of a motor vehicle.

Referred to the Committee on Education.

By Senators Weld, Ferns, Unger, Plymale, Baldwin, Cline, and Boso:

Senate Bill 365—A Bill to amend and reenact §59-1-2c of the Code of West Virginia, 1931, as amended, relating to the Young Entrepreneur Reinvestment Act; waiving certain fees for individuals under 30 years of age creating certain business organizations; and eliminating sunset date for expiration of fee waivers.

Referred to the Committee on Economic Development.

By Senators Rucker and Azinger:

Senate Bill 366—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to prohibiting the State Board of Education from accepting federal education plans without approval of the Legislature.

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

By Senator Trump:

Senate Bill 367—A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-9-10 of said code, all relating to allowing retired judicial officers recalled to service to avoid the normal cap on temporary employment payments where an urgent need such as a significant illness, suspension, or other long absence of a sitting judicial officer requires a longer period of service by the retired judicial officer than the current caps would allow.

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

By Senators Jeffries, Beach, and Rucker:

Senate Bill 368—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3, §46A-6N-4, §46A-6N-5, §46A-6N-6, and §46A-6N-7, all relating to restricting automatic purchase renewals; stating legislative intent; defining terms; setting notice requirements for using automatic purchase renewals; providing certain business conduct is unlawful with respect to automatic purchase renewals; detailing consumer responsibility; authorizing civil actions; and stating exemptions.

Referred to the Committee on the Judiciary.

By Senators Clements, Boso, Maroney, and Romano:

Senate Bill 369—A Bill to repeal §25-1-1, §25-1-1a, §25-1-3, §25-1-3a, §25-1-3b, §25-1-3c, §25-1-4, §25-1-5, §25-1-5a, §25-1-6, §25-1-7, §25-1-8, §25-1-11, §25-1-11a, §25-1-11b, §25-1-11c, §25-1-11d, §25-1-11e, §25-1-11f, §25-1-13, §25-1-14, §25-1-15, §25-1-16, §25-1-16a, §25-1-17, §25-1-18, §25-1-19, §25-1-20, §25-1-21, and §25-1-22 of the Code of West Virginia, 1931, as amended; to repeal §28-5-7, §28-5-8a, §28-5-23, §28-5-24, and §28-5-27 of said code; to repeal §31-20-1, §31-20-1a, §31-20-2, §31-20-3, §31-20-4, §31-20-5, §31-20-5a, §31-20-5b, §31-20-5c, §31-20-5d, §31-20-5e, §31-20-5f, §31-20-5g, §31-20-5h, §31-20-8, §31-20-8a, §31-20-9, §31-20-9a, §31-20-10, §31-20-10a, §31-20-10b, §31-20-11, §31-20-12, §31-20-13, §31-20-14, §31-20-15, §31-20-20, §31-20-22, §31-20-23, §31-20-24, §31-20-27, §31-20-27a, §31-20-28, §31-20-29, §31-20-30, §31-20-30a, §31-20-31, and §31-20-32 of said code; to repeal §62-12-14, §62-12-14a, and §62-12-15 of said code; to repeal §62-13-3, §62-13-4, §62-13-5, and §62-13-6a of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new chapter, designated §15A-1-1, §15A-1-2, §15A-1-3, §15A-1-4, §15A-1-5, §15A-2-1, §15A-2-2, §15A-2-3, §15A-2-4, §15A-2-5, §15A-2-6, §15A-2-7, §15A-2-8, §15A-2-9, §15A-2-10, §15A-2-11, §15A-2-12, §15A-2-13, §15A-2-14, §15A-2-15, §15A-2-16, §15A-2-17, §15A-2-18, §15A-2-19, §15A-2-20, §15A-2-21, §15A-2-22, §15A-2-23, §15A-2-24, §15A-2-25, §15A-2-26, §15A-2-27, §15A-2-28, §15A-2-29, §15A-2-30, §15A-2-31, §15A-2-32, §15A-2-33, §15A-2-34, §15A-2-35, §15A-2-36, §15A-3-1, §15A-3-2, §15A-3-3, §15A-3-4, §15A-3-5, §15A-3-6, §15A-3-7, §15A-4-1, §15A-4-2, §15A-4-3, §15A-4-4, §15A-4-5, §15A-4-6, §15A-5-1, §15A-5-2, §15A-5-3, §15A-5-4, §15A-5-5, §15A-5-6, §15A-5-7, §15A-6-1, §15A-6-2, and §15A-6-3; and to amend and reenact §19-12A-5 of said code, all relating to the powers and authority of the newly created Department of Military Affairs and Public Safety, Divisions of Administrative Services, and Corrections and Rehabilitation; abolishing certain divisions and authorities; setting forth legislative intent; setting forth the institutions to be controlled by the Commissioner of Corrections and Rehabilitation; establishing law-enforcement powers; establishing employment criteria; establishing rules for offenders and inmates; establishing certain funds and programs; creating the Bureau of Prisons and Jails and setting forth its duties and responsibilities; establishing the Bureau of Juvenile Services and setting forth its duties and responsibilities; establishing the Bureau of Community Corrections and setting forth its duties and responsibilities; creating the Regional Jail and Corrections Authority Board and setting forth its duties and responsibilities; setting forth compensation; defining terms; and requiring rulemaking.

Referred to the Committee on Government Organization.

Senator Maynard offered the following resolution:

Senate Concurrent Resolution 8—Requesting the Joint Committee on Government and Finance study the creation and role of the West Virginia Motorsports Commission and the economic benefits arising from its efforts to promote motorsports within the state.

Whereas, Motorsports have played a significant role in the culture and entertainment of West Virginians; and

Whereas, Many West Virginians travel out of state to participate in and watch many motor-sporting events; and

Whereas, Other states have seen motorsports create manufacturing jobs and economic growth; and

Whereas, The promotion of motorsports within the state could lead to the creation of jobs and help stimulate the economy through tourism, both by bringing in out-of-state visitors as well as keeping many West Virginians home where their entertainment dollar would go further; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the creation and role of the West Virginia Motorsports Commission and the economic benefits arising from its efforts to promote motorsports within the state; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the Commissioner of Tourism and the Director of the West Virginia Development Office in conducting the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Maynard, Stollings, Romano, Unger, Beach, Baldwin, and Cline offered the following resolution:

Senate Resolution 15—Designating January 24, 2018, as School Counselors Day at the Legislature.

Whereas, School counselors are vital members of the education system in West Virginia; and

Whereas, School counselors are employed in public and private schools to help students reach their full potential; and

Whereas, School counselors are actively committed to helping students explore their abilities, strengths, interests, and talents as these traits relate to career awareness and development; and

Whereas, School counselors help parents focus on ways to further the educational, personal, and social growth of their children; and

Whereas, School counselors work with teachers and other educators to help students explore their potential and set realistic goals for themselves; and

Whereas, School counselors seek to identify and utilize community resources that can enhance and complement comprehensive school counseling programs and help students become productive members of society; and

Whereas, Comprehensive developmental school counseling programs are considered an integral part of the educational process that enables all students to achieve success in school; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 24, 2018, as School Counselors Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia School Counselors Association.

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

Senators Plymale, Woelfel, Stollings, Unger, Beach, and Boso offered the following resolution:

Senate Resolution 16—Designating Wednesday, January 24, 2018, as Marshall University Day at the Capitol.

Whereas, Marshall University has been educating sons and daughters of Marshall in the tradition of the great Chief Justice John Marshall since the institution's founding in 1837; and

Whereas, Marshall University today is a premier institution of higher learning, educating more than 14,000 students at campuses in Huntington, Point Pleasant, South Charleston, Beckley, Logan, and Gilbert; and

Whereas, Through its role in creating the Alliance for the Economic Development of Southern West Virginia, Marshall University is leading a consortium of 10 public higher education institutions dedicated to fostering an environment for renewed economic growth in the southern coalfields; and

Whereas, Through a multidisciplinary approach, a coalition of medical, behavioral, and social services experts at Marshall University is helping lead the fight against the substance abuse epidemic in our state and nation; and

Whereas, Its veteran-friendly programs and services recently earned Marshall University national distinction as a Purple Heart University; and

Whereas, Marshall University has built a national reputation for research in biotechnology, forensics, and medicine, and trains hundreds of West Virginians to serve as the region's rural physicians, nurses, therapists, and health technicians; and

Whereas, Nearly \$400 million and 3,200 jobs are contributed annually to West Virginia's economy by Marshall University; therefore, be it

Resolved by the Senate:

That the Senate hereby designates Wednesday, January 24, 2018, as Marshall University Day at the Capitol; and, be it

Further Resolved, That the Senate extends its sincere appreciation and gratitude to Marshall University for its tremendous contributions to the State of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Dr. Jerome A. Gilbert, President of Marshall University.

At the request of Senator Woelfel, 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 Ferns, and by unanimous consent, the remarks by Senators Woelfel and Maynard regarding the adoption of Senate Resolution 16 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:40 a.m., the Senate recessed to present Senate Resolution 16.

The Senate reconvened at 11:47 a.m. today and resumed business under the sixth order.

Senators Plymale, Woelfel, Stollings, Romano, Unger, Beach, and Boso offered the following resolution:

Senate Resolution 17—Recognizing the outstanding athletic achievements of the Marshall University football team.

Whereas, The Thundering Herd has the best winning percentage in the history of college football in the modern-day bowl era; and

Whereas, Marshall's victory against Colorado State in the 2017 Gildan New Mexico Bowl moved Coach John "Doc" Holliday's bowl record as a head coach to five wins and zero losses; and

Whereas, Marshall's six consecutive bowl victories is the longest active streak in college football; and

Whereas, The Thundering Herd has the best home field winning percentage in major college football at .829 since Edwards Stadium opened in 1991; and

Whereas, Marshall's 44 wins since 2013 are the most of any Conference USA football program in the last five years; and

Whereas, The Thundering Herd placed 13 players on all-conference teams; and

Whereas, The team's leading tackler, captain and Team MVP was Beckley native Chase Hancock; and

Whereas, Senior, Ryan Yurachek, was named a team captain to the Conference USA all-academic team; was given the Senior Scholar Award by the MU coaching staff; tied a school record for consecutive games with a reception; earned first-team, all-conference honors; and spearheaded fundraising efforts for those affected by flooding in Houston; and

Whereas, Wide receiver, Tyre Brady, took home the New Mexico Bowl Offensive MVP award and defensive lineman, Channing Hames, was named the bowl game's Defensive MVP; and

Whereas, Quarterback, Chase Litton, has climbed into the top five in program history in completions, passing yards, and passing touchdowns with one year of eligibility remaining; and

Whereas, Marshall continued its rich tradition of on-field success, off-the-field devotion to community service, and dedication in the classroom; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the outstanding athletic achievements of the Marshall University football team; and, be it

Further Resolved, That we acknowledge the hard word, dedication, and commitment of the Marshall University football team on Marshall University Day at the Capitol; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Marshall University head football coach, John "Doc" Holliday.

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 17 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:52 a.m., the Senate recessed to present Senate Resolution 17.

The Senate reconvened at 11:54 a.m. today and proceeded to the seventh order of business.

Senate Concurrent Resolution 7, Requesting federal government grant waiver for required waiting period for tubal ligation procedures.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 37, Equalizing penalty for entering without breaking regardless of time of day.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

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. 37) 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 39, Creating Sexual Assault Victims' Bill of Rights.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 39 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

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. 39) 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 75, Relating to sale or transfer of video lottery locations.

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: Arvon, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger—1.

Absent: Mann—1.

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. 75) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger—1.

Absent: Mann—1.

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. 75) 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 134, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

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. 134) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

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. 134) 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 292, Relating to Commission on Special Investigations.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

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. 292) passed with its title.

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

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Senate Bill 67, Exempting DNR police officers' pensions from state income tax.

Com. Sub. for Senate Bill 116, Providing court costs collected under Second Chance Driver's License Program are not subject to 5 percent offset.

Senate Bill 143, Permitting DNR identification tag be used to identify trap.

Com. Sub. for Senate Bill 163, Authorizing DEP promulgate legislative rules.

Senate Bill 311, Specifying consumers sales and service tax exemption for purchase of certain services and tangible personal property related to aircraft.

And,

Senate Bill 351, Permitting ballot commissioners serve while candidates for certain offices.

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

The Senate then proceeded to the thirteenth order of business.

Senator Carmichael (Mr. President) announced the appointment of Senator Arvon to the Committee on Economic Development; and the removal of Senator Arvon from the Committee on Banking and Insurance.

Senator Stollings called attention to today being the birthday of the Senior Senator from Sixteenth and on behalf of the Senate extended felicitations and good wishes to Senator Unger, with Senator Stollings leading the members in singing "Happy Birthday".

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 12:20 p.m., the Senate adjourned until tomorrow, Thursday, January 25, 2018, at 11 a.m.

SENATE CALENDAR

**Thursday, January 25, 2018
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 8 - Requesting study of creation and role of WV Motorsports Commission

SECOND READING

S. B. 67 - Exempting DNR police officers' pensions from state income tax (original similar to SB 285)

Com. Sub. for S. B. 116 - Providing court costs collected under Second Chance Driver's License Program are not subject to 5 percent offset

S. B. 143 - Permitting DNR identification tag be used to identify trap

Com. Sub. for S. B. 163 - Authorizing DEP promulgate legislative rules (original similar to HB4093)

S. B. 311 - Specifying consumers sales and service tax exemption for purchase of certain services and tangible personal property related to aircraft

S. B. 351 - Permitting ballot commissioners serve while candidates for certain offices

FIRST READING

Com. Sub. for S. B. 7 - Relating to claims under Wage Payment and Collection Act

Com. Sub. for S. B. 51 - Relating to domestic relations

S. B. 280 - Allowing airports' emergency management and operations vehicles to use red flashing warning lights

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Thursday, January 25, 2018

1 p.m.

Energy, Industry & Mining

(Room 208W)