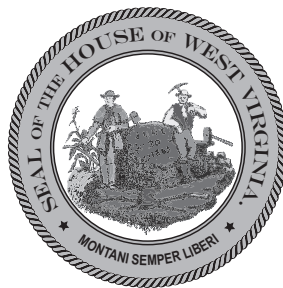


West Virginia Legislature

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January 28, 2019
TWENTIETH DAY

Monday, January 28, 2019

TWENTIETH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Friday, January 25, 2019, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At the request of Delegate Summers, and by unanimous consent, the House of Delegates proceeded to the Seventh Order of Business for the purpose of introducing a resolution.

Resolutions Introduced

Delegates Fast, Kessinger, Staggers, Anderson, Angelucci, Atkinson, Azinger, Barrett, Bates, Bibby, Boggs, N. Brown, S. Brown, Butler, Byrd, Cadle, Campbell, Canestraro, Capito, Caputo, Cooper, Cowles, Criss, Dean, Diserio, Doyle, Ellington, Espinosa, Estep-Burton, Evans, Fleischauer, Fluharty, Foster, Graves, Hamrick, Hanna, Hansen, Hanshaw (Mr. Speaker), Hardy, Harshbarger, Hartman, Hicks, Higginbotham, Hill, Hollen, Hornbuckle, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kump, Lavender-Bowe, Linville, Longstreth, Lovejoy, Malcolm, Mandt, C. Martin, P. Martin, Maynard, McGeehan, Miley, Miller, Nelson, Pack, Paynter, Pethtel, Phillips, Porterfield, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowan, Rowe, Shott, Skaff, Sponaugle, Steele, Storch, Summers, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Waxman, Westfall, Williams, Wilson, Worrell and Zukoff offered the following resolution:

H. R. 8 - "Memorializing the life of the Honorable Paul W. McKown, veteran, athlete, teacher, coach and public servant."

Whereas, Paul W. McKown was born on June 18, 1935, in Millstone, Calhoun County, and raised in Lookout, Fayette County, West Virginia, and was one of ten children born to the late Evan McKown and Shirley Powell McKown; and

Whereas, Paul served in the US Army during the Korean War. Following his discharge, he returned to school and graduated from Glenville State College, where he was a three-sport letterman, played on one of Glenville State's undefeated football teams and received the distinction of being named to the all-conference team as a running back; and

Whereas, In keeping with his sports interests, Paul continued to make sure the rules were followed by being a WVIAC basketball official for more than 20 years; and

Whereas, From 1959 to 1977, Paul was a teacher and coach at Fayetteville High School. During this time, he was deeply involved in community and school events and working with the youth was

his passion. Paul moved into an administrative position with Fayette County Schools in 1978 when he became Director of Transportation; and

Whereas, Paul was elected to the West Virginia House of Delegates in 1976 representing Fayette County. He was a member of the Committees on Agriculture and Natural Resources, Banking and Insurance and Government Organization; and

Whereas, Paul's legislative service instilled in him a new passion for government affairs and for the next 22 years, he was President of the West Virginia Retailers Association. In this position, he fully enjoyed his continued involvement with the Legislature through his lobbying efforts; and

Whereas, Paul is survived by the love of his life, Shirley Lambert McKown, whom he married on June 15, 1957. He is also survived by his four children, Mike, Jody, Stephanie and Julie, 12 grandchildren and 10 great-grandchildren; and

Whereas, Paul was a Methodist and a member of the West Virginia Coaches Association, WVAC Officials Association, Fayetteville Boosters Club, Fayetteville Little League, International Association of Basketball Officials, and the American Legion; and

Whereas, Sadly the Honorable Paul W. McKown, also known as Coach and Paps, passed away on August 1, 2018; therefore, be it

Resolved by the House of Delegates of the West Virginia Legislature:

That the House of Delegates hereby memorializes the life of the Honorable Paul W. McKown, veteran, athlete, teacher, coach and public servant; and, be it

Further Resolved, That the House of Delegates hereby extends its sincere sympathy at the passing of the Honorable Paul W. McKown; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the family of the Honorable Paul W. McKown.

At the respective requests of Delegate Summers, and by unanimous consent, reference of the resolution (H. R. 8) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was then read by the Clerk.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 28**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Hill, Nelson, Skaff and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 8) adopted.

Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2521, Relating to permitting fur-bearer parts,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2521 - "A Bill to amend and reenact §20-2-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §20-2-12 of said code; and to amend and reenact §20-2-49 of said code, all relating to permitting the selling, trading, and bartering of fur-bearer parts, including carcasses for the making of lures and baits, carcass parts, including glands, skulls, claws, and bones, and fur-bearer urine; and providing that the hide and tails of legally killed squirrels may be sold, traded or bartered,"

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2503, Relating to court actions,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2503 - "A Bill to amend and reenact §49-4-601 of the Code of West Virginia, 1931, as amended, relating to court actions; procedures in child neglect or abuse cases; requiring a petition to include an accusatory statement; when a court may and may not appoint counsel; and requiring a court to appoint counsel to an unrepresented person if necessary to satisfy the requirements of due process,"

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 177, Fire Commission rule relating to State Building Code,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2010, Relating to foster care,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2010 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-27; to amend and reenact §49-1-206 of said code; to amend and reenact §49-2-107, §49-2-113, and §49-2-708 of said code; to amend said code by adding thereto a two new sections, designated §49-2-111A and §49-2-111B; and to amend and reenact §49-4-108, §49-4-406, §49-4-413, §49-4-604, §49-4-608, §49-4-711, §49-4-714 and §49-4-724 of said code, all relating to foster care; defining terms; transitioning the foster care population to a managed care organization; providing a sunset date; require the department to enter into certain types of contracts with child placing agencies; creating a state foster care ombudsman; providing authority to the ombudsman; requiring a study of kinship care; requiring the department to review certain legislative rules; extending the time a foster care certification is authorized; requiring home safety assessment to take place annually; prohibiting the removal of a child from a residential child care programs; providing exceptions to permit the removal of a child from a residential child care program; establishing payment rates for services; permitting those rates be exceed when certain conditions are met; prohibiting the termination of parental rights when participating in a medically assisted treatment program; prohibiting the placement of a foster child in an out of state facility; providing exceptions to the placement of a foster child in an out of state facility; and requiring reporting,"

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on Prevention and Treatment of Substance Abuse and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Rohrbach, Hollen, Ellington, Hanna, Hornbuckle, D. Kelly, Kessinger, Mandt, Pushkin, Robinson and Walker:

H. B. 2686 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-15B-1, and §62-15B-2, all relating to permitting the Supreme Court of Appeals of West Virginia to create a family drug court pilot program."

The recommendation of the Committee that the bill (H. B. 2686) be referred to the Committee on the Judiciary was omitted from the report and, subsequently, in the absence of objection, the Speaker referred the bill to the Committee on the Judiciary.

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 28, Removing hotel occupancy tax limit collects for medical care and emergency services,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 253 - “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, and §46A-6N-6, all relating to automatic purchase renewal offers and continuous service offers; stating legislative intent; defining terms; setting notice and disclosure requirements for automatic purchase renewal offers and continuous service offers; providing that a business may not charge the consumer for an automatic renewal or continuous services without first obtaining the consumer’s affirmative consent; providing acknowledgement requirements; providing that the business shall disclose how to cancel the automatic renewal or continuous service before the consumer pays if the offer includes a free gift or trial; providing that a business shall provide certain mechanism for cancellation of the automatic renewal or continuous offer in the acknowledgement; requiring a business to provide contact information to the consumer; providing means for terminating the automatic renewal or continuous service offer online; providing notice requirements in the case of material changes in the terms of the automatic renewal or continuous service; providing that the business shall provide to the consumer a reminder of the recurring charge and information on how the consumer may cancel at least 30 days prior to the charge in the case of automatic renewal or continuous service offers of certain frequency; providing a period of application; providing that goods, wares, merchandise, or products shall be deemed an unconditional gift to the consumer when the business sends any goods, wares, merchandise, or products to a consumer without first obtaining the consumer’s affirmative consent under a continuous service agreement or automatic renewal of a purchase; providing a civil cause of action; providing statutory penalties; providing that no action may be brought until written notice is provided by the consumer, or his or her representative, to the business; providing written notice requirements; providing mailing requirements; providing the business an opportunity to cure the alleged violation; providing for expiration of the cure offer and cure period; providing a period for the business to remit payment, if any, as specified in the accepted cure offer; providing that a claim may be brought for failure of the business to timely effect the accepted cure offer; providing that the written notice is a jurisdictional prerequisite to bringing a cause of action; providing the court discretion to award plaintiff costs of the action, including reasonable attorneys’ fees; providing that plaintiff is not entitled to costs and attorneys’ fees under certain circumstances; providing a statute of limitations; providing that the statute of limitations shall be tolled; and stating exemptions”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Staggars, Sponaugle, Angelucci, S. Brown, Diserio, Barrett, Caputo, Miley, Campbell, Fleischauer, Rodighiero, Atkinson, Bates, Boggs, N. Brown, Canestraro, Fluharty, Hartman, Lavender-Bowe, Lovejoy, Swartzmiller, C. Thompson and Wilson offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 9 - “Recognizing and honoring the achievements of professional football player and coach, Lonnie Warwick.”

Whereas, Lonnie Preston Warwick, born on February 26, 1942, is a native of Fayette County, West Virginia; and

Whereas, Lonnie Warwick grew up in Mount Hope, West Virginia, and attended Mount Hope High School where he was named all-state player in both football and basketball, and during which he participated in the 1959 state high school football championship game, and from which he graduated in 1960; and

Whereas, He subsequently attended the University of Tennessee and then Tennessee Technological University, where he also played football and was later named to that school’s Sports Hall of Fame; and

Whereas, After he signed with the Minnesota Vikings football team in 1964, Lonnie Warwick advanced to become the starting middle linebacker for the team and was a core member of the legendary "Purple People Eaters" Vikings defense of the late 1960s and early 1970s, and he was starting linebacker for the team in Super Bowl IV; and

Whereas, Lonnie Warwick also played professional football with the Atlanta Falcons in 1973 and 1974, and with the San Antonio Wings of the World Football League in 1975, and later became a coach with the Washington Redskins for several years; and

Whereas, Lonnie Warwick played 92 games in the National Football League, of which he was the starting player for 84 games; lead the Minnesota Vikings in tackles for four years; had 12 career interceptions, and scored a defensive touchdown after a blocked punt; and

Whereas, Lonnie Warwick has been inducted into the West Virginia North-South Football Hall of Fame, and now enjoys retirement in Mount Hope, but he continues to participate in football as a coach and keen observer of young players at local school football games; and

Whereas, It is fitting that the House of Delegates recognize West Virginia native, Lonnie Warwick, for his outstanding achievements as a football player and coach and for his continued contribution to sporting life in West Virginia; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby recognizes and honors the achievements of professional football player and coach, Lonnie Warwick; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Lonnie Warwick.

Delegate Rowe offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 38 - "Requesting the Joint Committee on Government and Finance to study the high unemployment rate and other socioeconomic problems confronting African Americans in this state."

Whereas, The disproportionately high number of social and economic indicators among African Americans in the areas of employment, education, criminal justice, health and family/social structure demonstrate a significant decline in the overall quality of life in the African American community in this state; and

Whereas, The unemployment rate for African American adults in West Virginia is approximately double the overall unemployment rate in this state, with unemployment figures from 1995 thru 1997 showing an average unemployment rate of 15 percent for African American adults compared to an overall average unemployment rate of 7.4 percent; and

Whereas, African American businesses comprise less than one percent of all businesses in West Virginia, demonstrating a scarcity of entrepreneurial opportunities for African Americans in this state; and

Whereas, The high unemployment rate of African Americans disproportionately affects poor, under-educated "working age" males, which adversely impacts the economic stability of African American families and contributes to the breakdown of family and social structures in the African American community; and

Whereas, A majority of African American households in this State are headed by single women who are recipients of Temporary Assistance to Needy Families (TANF), or who are minimum wage/low wage earners categorized as “working poor”; and

Whereas, There is a wide disparity in public education between African Americans and Caucasians in West Virginia, with school standardized testing indicating a significant achievement gap between African Americans and Caucasians, and with public schools having an over representation of African American children in special education programs and an under representation of African American children in gifted education programs; and

Whereas, There is a wide disparity in the criminal justice system between African Americans and Caucasians in this State, with a recent study indicating that West Virginia has one of the highest over representations of African Americans in the juvenile justice system of any state in the nation, and with a state African American adult prison population of 33.3 percent compared to the overall African American population rate of approximately 3.2 percent of total West Virginia population; and

Whereas, There is a wide disparity in the criminal justice system between African Americans and Caucasians in this State as to the continued problem of racial profiling by law enforcement agencies which is deserving of continued vigilance and oversight by improving the methodology of compiling vehicle traffic stop data to bring about an end to this degrading practice once and for all; and

Whereas, There is a wide disparity in health care between African Americans and Caucasians in West Virginia, with fewer African Americans having access to quality health care, and with African Americans having disproportionately higher death rates from numerous diseases, as well as an overall lower life expectancy; and

Whereas, There is a great need for a comprehensive study of the problems facing the African American community in West Virginia, and a great need for genuine solutions to these problems which so tragically afflict the African American citizens of this State; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to review, examine and study the high unemployment rate and other socioeconomic problems confronting African Americans in this state, and to further develop proposals which will enhance present services to low-income families to improve the economic and employment opportunities of African Americans and to help strengthen the family and social structure of the African American community; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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.

Delegates Caputo, Angelucci and Longstreth offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 39 - “Requesting the Division of Highways name bridge number 25-30-2.44 (25A076) (39.53708, -80.13866), locally known as Woods Run Bridge, carrying County Route 30 over Paw Paw Creek in Marion County, the ‘U. S. Army PFC Thomas Howard Wills, Jr. Memorial Bridge’.”

Whereas, Thomas Howard Wills, Jr. was born on September 21, 1930, in Monongah, attended Rivesville High School, was drafted in 1951 and was stationed at Camp Roberts, California in 1952 with the Lucky 7th Armored Division, Combat Command A, Medium Tank Battalion, Co D; and

Whereas, After serving in the Army three years, Thomas returned to West Virginia and was employed in the mining industry; and

Whereas, Thomas Howard Wills, Jr. was killed in a fatal roof-fall accident at 6:30 p.m., Tuesday, April 3, 1962, at the Loveridge Mine in Fairview, West Virginia. He died instantly at the age of 31, leaving behind a wife and two young boys; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC Thomas Howard Wills, Jr. and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 25-30-2.44 (25A076) (39.53708, -80.13866), locally known as Woods Run Bridge, carrying County Route 30 over Paw Paw Creek in Marion County, the "U. S. Army PFC Thomas Howard Wills, Jr. Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army PFC Thomas Howard Wills, Jr. Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

On motions for leave, Joint Resolutions were introduced, read by their titles and referred as follows:

By Delegates Harshbarger and Bibby:

H. J. R. 21 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section one, article X thereof, relating to eliminating the state personal property tax over a period of five years; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on Finance then the Judiciary.

By Delegates Doyle, R. Thompson, Hornbuckle, S. Brown, Evans, Lavender-Bowe, Campbell and Pyles:

H. J. R. 22 - "Proposing an amendment to the Constitution of the State of West Virginia, amending article IV thereof by adding thereto a new section, designated section thirteen, relating to the arrangement of congressional, senatorial and delegate districts after census by creating a State Redistricting Commission; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on Political Subdivisions then Government Organization then the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Campbell, Pack, Bates, Steele, Shott, Paynter, Lavender-Bowe, Kessinger, Maynard, Toney and Evans:

H. B. 2687 - "A Bill to amend and reenact §17-16A-6 of the Code of West Virginia, 1931, as amended, relating to exempting law enforcement and emergency vehicles from paying turnpike tolls"; to the Committee on Fire Departments and Emergency Medical Services then Finance.

By Delegates Maynard, Hamrick, Paynter, J. Jeffries, Rohrbach, Dean, Miller, Lovejoy, Pack, Robinson and Byrd:

H. B. 2688 - "A Bill to amend and reenact §17C-14-12 of the Code of West Virginia, 1931, as amended, relating to requiring air conditioning on all school buses"; to the Committee on Education then Finance.

By Delegate Rodighiero:

H. B. 2689 - "A Bill to repeal §61-3-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §61-2-31; and to amend and reenact §61-3-12 of said code, all relating to replacing the present crime of burglary with the crime of home invasion; providing criminal offenses of home invasion in the first, second, third and fourth degrees; and prescribing penalties"; to the Committee on the Judiciary.

By Delegates Westfall, Azinger, Nelson and Williams:

H. B. 2690 - "A Bill to amend and reenact §33-26A-19 of the West Virginia code, 1931, as amended, relating to guaranty associations"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Howell, D. Jeffries, Pack, Phillips, Worrell, Sypolt, Hott, C. Martin, Cadle, Dean and Storch:

H. B. 2691 - "A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to providing that a license to carry a concealed deadly weapon expires on the holder's birthday"; to the Committee on the Judiciary.

By Delegates Howell, D. Jeffries, Pack, Phillips, Worrell, Sypolt, Hott, C. Martin, Cadle, Dean and Storch:

H. B. 2692 - "A Bill to amend and reenact §3-5-7 and §3-5-24 of the Code of West Virginia, 1931, as amended, all relating to primary elections and procedures; and providing that the filing date for nomination certificates may be the same for independent and third party candidates as for recognized political parties"; to the Committee on Government Organization.

By Delegates Howell, D. Jeffries, Pack, Phillips, Worrell, Sypolt, Hott, C. Martin, Cadle, Dean and Storch:

H. B. 2693 - "A Bill to amend and reenact §61-11-22a of the Code of West Virginia, 1931, as amended, relating to traffic violations as qualifying for deferred adjudication and approved defensive driving courses as permissible terms or conditions of deferred adjudication"; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegates Howell, D. Jeffries, Pack, Phillips, Sypolt, Hott, Cadle, Hamrick, Graves, McGeehan and Pushkin:

H. B. 2694 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §19-12E-10 and §19-12E-11, all relating to the state's ability to regulate hemp production by submitting a plan to the Secretary of Agriculture; providing for continued production of industrial hemp without an approved plan for state regulation; providing for negligent violations of the state plan; providing for requirements to correct negligent violations; and, providing

for revocation of an industrial hemp license for repeat negligent violations of a state plan”; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegates Hollen, Boggs, Fast, Harshbarger, Miller, Criss, D. Kelly and Pushkin:

H. B. 2695 - “A Bill to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to exempting from the Purchasing Division purchases made by the Director of the Division of Protective Services for equipment to maintain security at state facilities”; to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

By Delegates Howell, Bibby, Phillips, Sypolt, Cadle, Azinger, D. Jeffries, Pack, Worrell and Hott:

H. B. 2696 - “A Bill to amend and reenact §14-1-20 and §14-1-21 of the Code of West Virginia, 1931, as amended, all relating to creating an additional index system for state-owned lands; providing that the county courts submit a list of lands the state obtained to the Auditor; providing that the Auditor create an index system; providing that the Auditor create a standard naming system; and providing for rule-making authority relating to the index system”; to the Committee on Government Organization.

By Delegates Howell, Foster, McGeehan, Maynard, Toney, Jennings, Sypolt, Cadle, J. Jeffries, Pack and Worrell:

H. B. 2697 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to permitting unlicensed persons to be hired by consumers; providing for a short title; providing for definitions; providing for disclosure information; providing for an example disclosure form; providing for working without a license; providing for defense and relief; providing for remedies; providing for applicability; providing for limitations; providing for preemption of state statutes; and providing for an effective date”; to the Committee on Industry and Labor then Government Organization.

By Delegates Hollen, Boggs, Harshbarger, Miller, Pushkin, Criss, D. Kelly and Canestraro:

H. B. 2698 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-1-7, relating to authorizing the Division of Corrections and Rehabilitation to release to county prosecutors of this state and the United States Attorney certain information which may be required for the prosecution of a criminal action; and immunities”; to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

By Delegates Howell, D. Jeffries, Pack, Phillips, Worrell, Sypolt, Hott, C. Martin, Cadle, Dean and Hamrick:

H. B. 2699 - “A Bill to amend and reenact §8-6-5 of the Code of West Virginia, 1931, as amended, relating to municipal annexation by minor boundary adjustment; and providing that 50 percent or more of the land area annexed by minor boundary adjustment shall include land that is occupied residential”; to the Committee on Government Organization then the Judiciary.

By Delegates Howell, D. Jeffries, Pack, Phillips, Worrell, Sypolt, Hott, C. Martin, Cadle and Dean:

H. B. 2700 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-28, relating to requiring the Public Employees Insurance Agency to use the West Virginia Medicaid Prescription Plan as its Pharmacy Benefits Manager provided the cost to the end consumer are lower; and requiring rulemaking”; to the Committee on Banking and Insurance then Health and Human Resources.

By Delegates Howell, D. Jeffries, Pack, Phillips, Worrell, Sypolt, Hott, C. Martin, Cadle, Dean and Hamrick:

H. B. 2701 - "A Bill to amend and reenact §17-22-4 of the Code of West Virginia, 1931, as amended, relating to general restrictions for outdoor advertising; and providing that advertising signs, displays or devices may be erected by businesses, industrial parks or points of interest up to 1000 feet from the premises of the businesses, industrial parks or points of interest that may not be seen from the roadway due to terrain or other obstructions"; to the Committee on Technology and Infrastructure then Government Organization.

**By Delegates Hanshaw (Mr. Speaker) and Miley
[By Request of the Executive]:**

H. B. 2702 - "A Bill to amend and reenact §24-6-6b of the Code of West Virginia, 1931, as amended, relating to the wireless enhanced 911 fee; eliminating portions of the wireless enhanced 911 fee that are disbursed to state agencies; establishing the public safety wireless fee; and providing for the collection and disbursement of the public safety wireless fee"; to the Committee on Finance.

By Delegates Pack, Steele, Cooper, Graves, Criss, Westfall, Queen, Azinger, Higginbotham, Barrett and Bates:

H. B. 2703 - "A Bill to amend and reenact §11-14-10 of the Code of West Virginia, 1931, as amended, relating to refunds of excise taxes collected from dealers of petroleum products under certain circumstances; and eliminating a cap on the amount of tax that may be refunded for fuels lost through evaporation"; to the Committee on Finance.

By Delegate Rowe:

H. B. 2704 - "A Bill to amend §62-12-13 of the Code of West Virginia, 1931, as amended, relating to eligibility for parole; providing that any inmate of a state correctional institution is eligible to petition for parole when good time credits and actual time served equal 30 years"; to the Committee on the Judiciary.

By Delegates Doyle, S. Brown and Evans:

H. B. 2705 - "A Bill to amend and reenact §1-2-2c of the Code of West Virginia, 1931, as amended, relating to the redistricting of the Senate into 16 two-member senatorial districts and redistricting the House into 96 single member districts; how future house districts are to be drawn; and, that the redistricting is to begin in 2020 based on the 2010 census"; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Harshbarger, Steele, Wilson, Foster, J. Jeffries, Higginbotham, Hollen, Cooper, McGeehan, Kessinger and Cadle:

H. B. 2706 - "A Bill to amend and reenact §18-7A-17 of the Code of West Virginia, 1931, as amended, relating to providing that members of the State Teachers Retirement System shall be considered absent from service as a teacher or nonteacher while serving as an officer with a statewide professional teaching association after 2018; and providing that retirants, who have served in that capacity after 2018 while members, shall be considered to have been absent from service as a teacher by reason of that service"; to the Committee on Pensions and Retirement then Finance.

By Delegates Nelson, Fluharty, Shott, Ellington, Queen, Miley, Hornbuckle, Byrd, Cooper, J. Kelly and Fleischauer:

H. B. 2707 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §1-2-2d; to amend and reenact §3-1-16 of said code; to amend and reenact §3-5-4 and §3-5-13 of said code; and to amend and reenact §3-6-2 of said code, all relating to requiring that in every delegate district having two or more delegates there shall be numbered

divisions corresponding to the number of delegates in each delegate district; and providing for ballots”; to the Committee on the Judiciary.

By Delegates Householder, Foster, Howell, Kessinger and Waxman:

H. B. 2708 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §8B-1-1, §8B-1-2, §8B-1-3, §8B-1-4, §8B-1-5 and §8B-1-6, all relating to creating the Local Government Labor and Consumer Marketing Regulatory Limitation Act; prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, local resolutions, or other legal requirements; providing a short title; setting forth legislative findings and declarations; defining terms; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates information requested, required, or excluded on an application for employment; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to pay a wage higher than any applicable state or federal law; providing that political subdivisions shall not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to pay wages or fringe benefits based on a rate prevailing in the locality or the state; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulate work stoppages, strike activity, or means by which employees organize; providing that political subdivisions shall not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to provide paid or unpaid leave time; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer or its employees to participate in an apprenticeship or apprenticeship training program not required by federal or state law; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates an employee’s hours and scheduling; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates standards or requirements regarding the sale or marketing of consumer merchandise that are different from or in addition to state law; providing that political subdivisions shall not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates standards of care or conduct for certain professions; providing for civil relief; establishing a civil cause of action which, if proven in a court of competent jurisdiction, may permit a person to recover damages, including compensatory and punitive damages, costs and attorney’s fees, injunctive relief or any other appropriate equitable relief against any political subdivision violating the Local Government Labor and Consumer Marketing Regulatory Limitation Act; providing exceptions; clarifying effect on prior written agreements; providing that any prohibited ordinance, regulation, local policy, local resolution or other legal requirement in effect prior to the effective date of chapter is void; providing that the prohibitions do not apply to employees of a political subdivision; and clarifying the effect on the West Virginia Alcohol and Drug-Free Workplace Act”; to the Committee on Government Organization then the Judiciary.

Special Calendar

Third Reading

Com. Sub. for H. B. 2005, Broadband Expansion Act of 2019; on third reading, coming up in regular order, with amendments pending, was reported by the Clerk.

On motion of Delegate Shott, the bill was amended on page four, section five, line fifteen, by correcting the second occurring subsection (c) by renumbering that subsection as subsection (d).

And,

On page four, section five, line thirty-one, immediately following the word “unserved”, by striking out the word “and” and inserting in lieu thereof “areas of the state, as defined in article one, section two of this chapter, and any”.

On motion of Delegates Byrd and Shott, the bill was amended on page six, article four, line sixty-two, by inserting the following new section:

“§31G-4-6. Severability.

Pursuant to §2-2-10 of this code, if any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.”

Delegate Fleischauer moved to amend the bill on page two, by striking out Article 6L in its entirety and inserting in lieu thereof, the following:

“CHAPTER 11. TAXATION.

ARTICLE 13EE. WIRELESS TECHNOLOGY BUSINESS PROPERTY TAX CREDIT.

§11-13EE-1. Short title.

This article shall be cited as the “Wireless Technology Business Tax Credit.”

§11-13EE-2. Legislative findings and purpose.

The Legislature finds that the encouragement of economic growth through the expansion of wireless technology is an essential component in economic development and enhancing the quality of cellular services to state citizens with poor or limited cellular and internet service. In order to encourage expansion of cellular services throughout underserved areas of the state, that a tax credit for construction of cellular towers is in the public interest, and therefore a temporary tax credit to facilitate construction of these facilities is in the public interest and will encourage economic growth and improve the quality of life for our citizens.

§11-13EE-3. Definitions.

For the purpose of this article, “Tower” means a structure which hosts an antenna or other equipment used for the purposes of transmitting cellular or wireless signals for communications purposes, including telephonically, or for computing purposes, including any antenna and all associated equipment in areas of the state with poor or limited internet and cellular services.

§11-13EE-4. Amount of credit allowed.

Any taxpayer who installs or causes to be installed a tower on property located in this state and the tower in areas of the state with poor or limited internet and cellular services owned by the taxpayer and constructed any time beginning July 1, 2019 and ending July 1, 2024, shall be allowed a credit in an amount equal of 80% of the construction costs of the tower, prorated over a five-year period. This credit shall reduce taxes paid by the taxpayer pursuant to §11-24-1 et seq., of this code.

§11-13EE-5. Carryover credit allowed; Tax Commissioner to promulgate rules.

If the amount of the credit exceeds the taxpayer's liability for the taxable year, the amount which exceeds the tax liability may be carried over and applied as a credit against the tax liability of the taxpayer pursuant to the provisions of article twenty-four of this chapter to each of the next taxable years unless sooner used. The State Tax Commissioner shall consult with the Public Service Commission to identify areas of the State to designate as having poor or limited internet services, and promulgate legislative rules pursuant to the provisions of §29A-1-1 et seq. of this code regarding the locations eligible for the tax credit, method of claiming of the credit, and documentation necessary to claim the credit allowed by this article."

The question before the House being the adoption of the amendment, the same was put and did not prevail.

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 29**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer and Steele.

Absent and Not Voting: Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2005) passed.

On motion of Delegates Byrd and Shott, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 2005 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6L-1, §11-6L-2, §11-6L-3, §11-6L-4, and §11-6L-5, to amend said code by adding thereto three new sections, designated §31G-4-4, §31G-4-5, and §31G-4-6, and to amend said code by adding thereto a new chapter, designated §31H-1-1, §31H-1-2, §31H-2-1, §31H-2-2, §31H-2-3, and §31H-2-4, all relating to wireless telecommunication technology facilities generally; providing a special method for valuation of certain wireless technology property for property taxes; defining terms; providing mandated salvage valuation of certain wireless businesses' property; specifying method for valuation of certain property; requiring initial determination and specifying procedure for protest and appeal of determination; establishing Public Service Commission jurisdiction over make-ready pole access within the state; relating to the determination of the feasibility of electric utilities constructing and operating middle-mile broadband internet projects to serve certain unserved and underserved areas; defining certain terms; delineating the factors that must be contained in certain feasibility studies; requiring the Broadband Enhancement Council and the Public Service Commission to assist electric utilities in the determination of the feasibility of certain proposed middle-mile broadband development projects; requiring that the Broadband Enhancement Council render a judgment as to the feasibility of middle-mile broadband internet projects within a certain period of time; requiring certain reports be submitted to certain officials and committees; and providing for severability; the establishment of the West Virginia Small Wireless Facilities Deployment Act; making legislative findings; defining terms; providing for access to public rights-of-way for the collocation of small wireless facilities; providing for certain permit requirements; authorizing and limiting access to collocation sites, structures and equipment; requiring permits to be issued on a nondiscriminatory basis; providing for the collection of fees and setting the amount of fees; and providing for certain zoning, indemnification, insurance, and bonding requirements."

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

H. B. 2036, Permitting vehicles displaying disabled veterans' special registration plates to park in places where persons with mobility impairments may park; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 30**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2036) passed.

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

H. B. 2209, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 31**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2209) passed.

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

H. B. 2547, Relating to the election prohibition zone; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 32**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Doyle and Rowe.

Absent and Not Voting: Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2547) passed.

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

Com. Sub. for H. B. 2600, Relating to publication of sample ballots; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 33**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Skaff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2600) passed.

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

Second Reading

Com. Sub. for S. B. 17, Relating to probation eligibility; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 119, Specifying documents not subject to discovery in certain proceedings; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 272, Updating code relating to Commission on Special Investigations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2191, Relating generally to limited video lottery; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2514, Permitting pawn brokers to disclose whether any specific property has been sold or pledged; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2602, Including possession of known stolen property in the offense of receiving or transferring stolen property; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for H. B. 2324, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy,

Com. Sub. for H. B. 2407, Relating to registered professional nurses,

Com. Sub. for H. B. 2492, Relating to mandatory reporting procedures of abuse and neglect of adults and children,

Com. Sub. for H. B. 2510, Relating to special funds of boards of examination or registration,

H. B. 2525, Tobacco Cessation Therapy Access Act,

H. B. 2530, Creating a voluntary certification for recovery residences,

Com. Sub. for H. B. 2531, Permitting trained nurses to provide mental health services in a medication-assisted treatment program,

And,

H. B. 2559, Requiring a special report by the Division of Personnel.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day was granted Delegate Skaff.

Miscellaneous Business

Delegate Nelson noted to the Clerk that he was absent on today when the vote was taken on H. R. 8, and that had he been present, he would have voted "Yea" thereon.

Pursuant to House Rule 94b, Members filed forms with the Clerk's Office to be added as a cosponsor of the following:

- Delegates Byrd, Hornbuckle, Maynard and Robinson for H. B. 2321
- Delegate Howell for H. B. 2420
- Delegates Lovejoy, Mandt and Rohrbach for H. B. 2478
- Delegate Barrett for H. B. 2481
- Delegate Porterfield for H. B. 2398 and H. B. 2521
- Delegate Pethtel for H. B. 2532
- Delegates Angelucci and Longstreth for H. C. R. 39

Pursuant to House Rule 94b, Members filed forms with the Clerk's Office to be removed as a cosponsor of the following:

- Delegate Summers for H. B. 2676

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegates Boggs, Fleischauer and Linville for Com. Sub. for H. B. 2005

- Delegates Lovejoy, Pushkin and Robinson during Remarks by Members

At 12:25 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, January 29, 2019.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Tuesday, January 29, 2019

21st Day

11:00 A. M.

THIRD READING

- Com. Sub. for S. B. 17 - Relating to probation eligibility (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 119 - Specifying documents not subject to discovery in certain proceedings (SHOTT) (REGULAR)
- S. B. 272 - Updating code relating to Commission on Special Investigations (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2083 - Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2191 - Relating generally to limited video lottery (WESTFALL) (EFFECTIVE FROM PASSAGE)
- H. B. 2514 - Permitting pawn brokers to disclose whether any specific property has been sold or pledged (HOWELL) (REGULAR)
- H. B. 2602 - Including possession of known stolen property in the offense of receiving or transferring stolen property (SHOTT) (REGULAR)

SECOND READING

- Com. Sub. for H. B. 2324 - Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2407 - Relating to registered professional nurses (ELLINGTON) (REGULAR)
- H. B. 2492 - Relating to mandatory reporting procedures of abuse and neglect of adults and children (ELLINGTON) (REGULAR)
- H. B. 2510 - Relating to special funds of boards of examination or registration (HOWELL) (REGULAR)
- H. B. 2525 - Tobacco Cessation Therapy Access Act (ELLINGTON) (REGULAR)
- H. B. 2530 - Creating a voluntary certification for recovery residences (ELLINGTON) (REGULAR)

Com. Sub. for H. B. 2531 - Permitting trained nurses to provide mental health services in a medication-assisted treatment program (ELLINGTON) (REGULAR)

H. B. 2559 - Requiring a special report by the Division of Personnel (HOWELL) (REGULAR)

FIRST READING

S. B. 28 - Removing hotel occupancy tax limit collects for medical care and emergency services (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)

S. B. 177 - Fire Commission rule relating to State Building Code (SHOTT) (EFFECTIVE FROM PASSAGE)

Com. Sub. for H. B. 2010 - Relating to foster care (SHOTT) (REGULAR)

Com. Sub. for H. B. 2503 - Relating to court actions (SHOTT) (REGULAR)

Com. Sub. for H. B. 2521 - Relating to permitting fur-bearer parts (SHOTT) (REGULAR)

HOUSE CALENDAR

Tuesday, January 29, 2019

21st Day

11:00 A. M.

SECOND READING

Com. Sub. for H. B. 2008 - Relating to nonpartisan election of justices of the Supreme Court of Appeals (SHOTT) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

TUESDAY, JANUARY 29, 2019

HOUSE CONVENES AT 11:00 A.M.

**AGRICULTURE AND NATURAL RESOURCES
8:30 A.M. – ROOM 215E**

**INDUSTRY & LABOR
10:00 A.M. – ROOM 215E**

**POLITICAL SUBDIVISIONS
1:00 P.M. – ROOM 434M**

**COMMITTEE ON ENERGY
2:00 P.M. – ROOM 418M**

**COMMITTEE ON HEALTH & HUMAN RESOURCES
2:00 P.M. – ROOM 215E**

**PENSIONS & RETIREMENT
4:00 P.M. – ROOM 460M**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470