

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
SIXTH DAY

Charleston, West Virginia, Monday, January 14, 2019

The Senate met at 11:09 a.m.

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

Prayer was offered by the Reverend Tom Bias, Retired United Methodist Clergy, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Tom Takubo, a senator from the seventeenth district.

John Marshall Fife and Drum Corps of Marshall University performed a selection of songs including "The Star-Spangled Banner".

Pending the reading of the Journal of Friday, January 11, 2019,

At the request of Senator Trump, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

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

The Clerk presented the following communications from various state agencies as required by the provisions of law:

Geological and Economic Survey (§29-2-6)

Respiratory Care, Board of (§30-1-12)

Sanitarians, State Board of (§30-1-12)

At the request of Senator Plymale, unanimous consent being granted, the Senate proceeded to the sixth order of business and the consideration of Senate Resolution 8.

Senators Plymale, Woelfel, Stollings, Boso, Sypolt, Maroney, and Lindsay offered the following resolution:

Senate Resolution 8—Designating January 14, 2019, as Marshall University Day at the Capitol.

Whereas, Marshall University has been educating sons and daughters of Marshall in the tradition of Chief Justice John Marshall since the institution's founding in 1837. This year marks the 182nd anniversary of Marshall University, founded as Marshall Academy; and

Whereas, Marshall University is a premier institution of higher learning, educating more than 13,000 students at 10 locations; and

Whereas, New academic programs in biomedical engineering, cybersecurity, and physician assistant will offer Marshall students the opportunity to prepare for cutting-edge careers; and

Whereas, Research at Marshall has grown 35 percent over the past two years and is focused on addressing some of the most pressing health concerns in Appalachia; and

Whereas, Its community partnerships and multidisciplinary approach to treating substance use disorder have made Marshall University a world leader in the effort to rebuild lives ravaged by the opioid epidemic; and

Whereas, The University's Robert C. Byrd Institute is dedicated to the productivity, growth, and global competitiveness of entrepreneurs and the Appalachian Transportation Institute continues to set national standards in transportation; 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 January 14, 2019, 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 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 Takubo, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Senate Resolution 8 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:26 a.m., the Senate recessed to present Senate Resolution 8.

The Senate reconvened at 11:30 a.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

At the request of Senator Takubo, and by unanimous consent, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

By Senators Sypolt, Azinger, Beach, Boso, Clements, Cline, Facemire, Hamilton, Maynard, Prezioso, Smith, Stollings, Swope, Takubo, Tarr, Trump, Rucker, Roberts, and Maroney:

Senate Bill 285—A Bill to amend and reenact §19-35-2 and §19-35-5 of the Code of West Virginia, 1931, as amended, all relating to modification of cottage food laws.

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

By Senators Rucker, Roberts, Trump, Unger, Cline, Tarr, and Maroney:

Senate Bill 286—A Bill to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to including certain education programs operated by private schools with accredited preschool classes and certain recognition by Department of Education.

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

By Senators Smith, Baldwin, Boso, Clements, Jeffries, Sypolt, Cline, Roberts, and Maroney:

Senate Bill 287—A Bill to amend and reenact §49-4-605 the Code of West Virginia, 1931, as amended, relating to termination of parental rights; requiring the Department of Health and Human Resources to file a petition to terminate parental rights when a parent has, on two separate occasions, had their child removed from their care and determined by a court to have subjected that child to abuse or neglect.

Referred to the Committee on the Judiciary.

By Senators Rucker, Azinger, Boso, Cline, Jeffries, Maynard, Smith, Swope, Sypolt, Takubo, Weld, Roberts, Tarr, Maroney, and Lindsay:

Senate Bill 288—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5V-36, relating to providing that moneys in the West Virginia Emergency Medical Services Retirement Fund are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment, or any other process whatsoever with the exception that the benefits or contributions under the system shall be subject to “qualified domestic relations orders”, and are generally unassignable.

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

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

Senate Bill 289—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.

Referred to the Committee on Finance.

By Senator Azinger:

Senate Bill 290—A Bill to amend and reenact §61-8B-7, §61-8B-9a, and §61-8B-9b of the Code of West Virginia, 1931, as amended, all relating to raising the age of children who are victims of certain sex offenses to 16.

Referred to the Committee on the Judiciary.

By Senators Sypolt, Baldwin, Maynard, Rucker, and Roberts:

Senate Bill 291—A Bill to amend and reenact §5H-1-1, §5H-1-2, and §5H-1-3 of the Code of West Virginia, 1931, as amended, all relating generally to survivor benefits for emergency response providers; changing the name of the West Virginia Fire and EMS Survivor Benefit Act to the West Virginia Emergency Responders Survivor Benefit Act; making Division of Forestry personnel who die as a proximate result of their participation in wildland fire fighting, emergency response, or disaster response operations eligible for survivor benefits; defining terms; making technical changes; and reorganizing language in the act for clarity.

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

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

Senate Bill 292—A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; to amend and reenact §12-4-14 of said code; to amend said code by adding thereto a new section, designated §12-4-14b; and to amend and reenact §29-3-5f of said code, all relating to fire service equipment and training funds for volunteer and part-volunteer fire companies and departments; authorizing fire departments to file bank statements and check images instead of sworn statements of expenditures; prohibiting the commingling of funds; requiring retention of payment records; defining certain terms; changing deadline dates; authorizing forfeiture and redistribution of funds of delinquent fire departments; prohibiting the conversion of funds through returns or refunds of goods or services; providing for deductions from quarterly distributions to offset improper expenditures by a fire company or department; clarifying the responsibility for proposing legislative rules; requiring written notifications of delinquencies and misapplication of funds; providing a procedure to contest findings of Legislative Auditor; removing certain criminal penalties; and updating outdated language.

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

By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Smith, Sypolt, Cline, Lindsay, and Baldwin:

Senate Bill 293—A Bill to amend and reenact §18A-1-1 of the Code of West Virginia, 1931, as amended, relating to clarifying a director of a multicounty vocational technical school is a principal.

Referred to the Committee on Education.

By Senators Hamilton, Facemire, Jeffries, Maynard, Smith, Sypolt, and Cline:

Senate Bill 294—A Bill to amend and reenact §17C-15-26 of the Code of West Virginia, 1931, as amended, relating to allowing vehicles operated by transportation directors and transportation supervisors employed by county boards of education to use red flashing warning lights.

Referred to the Committee on Transportation and Infrastructure.

By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Maynard, Smith, Sypolt, Cline, Trump, Rucker, and Lindsay:

Senate Bill 295—A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to crimes against public justice; obstructing an officer; including court security officers in the definition of persons against whom obstructing an officer is a crime; and adding protection for court security personnel and bailiffs as it relates to the potential to charge individuals for obstruction of such officers.

Referred to the Committee on the Judiciary.

By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, and Smith:

Senate Bill 296—A Bill to amend and reenact §5-10-18 of the Code of West Virginia, 1931, as amended, relating to providing an 11-month window to permit members of the Public Employees Retirement System to purchase credited service that had been previously forfeited.

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

By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Smith, Sypolt, Cline, Trump, Roberts, Tarr, Lindsay, and Baldwin:

Senate Bill 297—A Bill to amend and reenact §17B-2-12 of the Code of West Virginia, 1931, as amended, relating to extending the expiration of driver's licenses for active military members' spouses.

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

By Senators Hamilton, Boso, Ihlenfeld, Jeffries, Maynard, Smith, Stollings, Sypolt, Cline, and Tarr:

Senate Bill 298—A Bill to amend and reenact §20-2-30a of the Code of West Virginia, 1931, as amended, relating to a lawful method for a developmentally disabled person to purchase a base hunting license when that person attends an on-site hunter training course and successfully completes all nonwritten aspects of the course to receive a certificate but is unable to successfully complete the required course for the certificate of training; providing that the developmentally disabled person possessing the base hunting license may hunt when accompanied and directly supervised by a person over the age of 18 years; and providing criminal penalties for violations.

Referred to the Committee on Natural Resources.

By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Smith, Sypolt, Cline, Rucker, and Lindsay:

Senate Bill 299—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-20-11, relating to selection of language developmental milestones for purposes of developing a resource for use by parents to monitor and track deaf and hard-of-hearing children's expressive and receptive language acquisition and developmental stages toward English literacy.

Referred to the Committee on Education.

By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Maynard, Smith, Sypolt, Cline, and Maroney:

Senate Bill 300—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-22-803, relating to adoption records; authorizing adult

adoptees access to certain records; requiring birth parents to provide certain health information; allowing birth parents to designate a contact preference and allowing them to provide certain information; directing the Department of Health and Human Resources to administer records, require additional information, and charge a reasonable fee; providing a procedure for the collection and dissemination of information; and authorizing the Department of Health and Human Resources to promulgate legislative rules.

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

By Senators Hamilton, Boso, Facemire, Ihlenfeld, Maynard, Smith, Sypolt, and Cline:

Senate Bill 301—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9q, relating to exempting wood furniture from state sales tax if 75 percent of the finished product is made from wood timbered in the state and the furniture is manufactured in the state.

Referred to the Committee on Finance.

By Senators Hamilton, Boso, Facemire, Ihlenfeld, Jeffries, Smith, Cline, Stollings, and Baldwin:

Senate Bill 302—A Bill to amend and reenact §33-3-33 of the Code of West Virginia, 1931, as amended, relating to the surcharge on fire and casualty insurance policies; providing that the surcharge be increased to one percent; and providing that the surcharge be used solely for volunteer fire departments.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

By Senators Rucker, Azinger, Cline, Boso, and Tarr:

Senate Joint Resolution 8—Proposing an amendment to the Constitution of the State of West Virginia, amending section seven, article VIII thereof, relating to requiring the Senate to confirm by a majority vote the appointment of any justice to the Supreme Court of West Virginia; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Senators Hamilton, Boso, Jeffries, Maynard, Smith, Sypolt, Maroney, and Lindsay offered the following resolution:

Senate Concurrent Resolution 9—Requesting the Division of Highways name bridge number 49-32-12.86 (49A061), locally known as Alton Deck Girder, carrying County Route 32 over the Buckhannon River in Upshur County, the “U. S. Army PFC Winten L. Wayts Memorial Bridge”.

Whereas, Winten L. Wayts, son of Mr. and Mrs. Willard H. Wayts, of Alton, Upshur County, West Virginia, was born February 13, 1933, at Alton; and

Whereas, PFC Winten L. Wayts served in the U.S. Army as a member of the 712th Transportation Railway Operating Battalion; and

Whereas, On August 22, 1951, PFC Winten L. Wayts died as a result of injuries he sustained from falling from a train while on duty as a brakeman near Seoul, South Korea; and

Whereas, PFC Winten L. Wayts' remains are buried at Indian Camp Cemetery at French Creek, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC Winten L. Wayts who lost his life in service to his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 49-32-12.86 (49A061), locally known as Alton Deck Girder, carrying County Route 32 over the Buckhannon River in Upshur County, the "U. S. Army PFC Winten L. Wayts Memorial Bridge"; and be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army PFC Winten L. Wayts Memorial Bridge"; and be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 6, U. S. Army SP4 Darrell Gregory Triplett Memorial Bridge.

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

Senate Concurrent Resolution 7, Urging Congress provide exceptions to weight limits on trucks on interstate.

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

Senate Concurrent Resolution 8, Walter E. Swiger, Jr., Memorial Bridge.

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

The Senate proceeded to the tenth order of business.

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

Senate Bill 10, Relating to Second Chance Driver's License Program.

Senate Bill 24, Relating generally to local boards of health.

Senate Bill 27, Removing restrictions on where certain traditional lottery games may be played.

Senate Bill 28, Removing hotel occupancy tax limit collects for medical care and emergency services.

Senate Bill 36, Allowing adjustment of gross income for calculating personal income liability for certain retirees.

Com. Sub. for Senate Bill 106, Alleviating double taxation on foreign income at state level.

Senate Bill 177, Fire Commission rule relating to State Building Code.

And,

Senate Bill 190, DOH rule relating to employment procedures.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:36 a.m., the Senate adjourned until tomorrow, Tuesday, January 15, 2019, at 11 a.m.

SENATE CALENDAR

**Tuesday, January 15, 2019
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 9 - US Army PFC Winten L. Wayts Memorial Bridge

SECOND READING

S. B. 10 - Relating to Second Chance Driver's License Program

S. B. 24 - Relating generally to local boards of health

S. B. 27 - Removing restrictions on where certain traditional lottery games may be played

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

S. B. 36 - Allowing adjustment of gross income for calculating personal income liability for certain retirees

Com. Sub. for S. B. 106 - Alleviating double taxation on foreign income at state level

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

S. B. 190 - DOH rule relating to employment procedures - (Com. amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2019

Tuesday, January 15, 2019

10 a.m.	Transportation & Infrastructure	(Room 451M)
10 a.m.	Military	(Room 208W)
1 p.m.	Health & Human Resources	(Room 451M)