

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
FOURTEENTH DAY

Charleston, West Virginia, Tuesday, January 22, 2019

The Senate met at 11:02 a.m.

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

Prayer was offered by the Reverend Michael Estep, Senior Pastor, Suncrest United Methodist Church, Morgantown, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Rollan A. Roberts, a senator from the ninth district.

Pending the reading of the Journal of Monday, January 21, 2019,

At the request of Senator Lindsay, 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 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 2190—A Bill to amend and reenact §62-1C-1a of the Code of West Virginia, 1931, as amended, relating to the authorization to release a defendant or a person arrested upon his or her own recognizance; requiring a court or magistrate to release a person charged with certain misdemeanor offenses on his or her own recognizance except for good cause shown and permitting a prosecuting attorney to bring a motion to set cash or surety bond.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 2311—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-1-9, relating to exempting short-term license holders to submit information to the Tax Commissioner once the term of the permit has expired; and requiring rulemaking.

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

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 258, Establishing common law “veil piercing” claims not be used to impose personal liability.

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

Com. Sub. for Senate Bill 258 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §31B-3-303 of the Code of West Virginia, 1931, as amended, relating to establishing that the intent and policy of the Legislature is that common law corporate “veil piercing” claims may not be used to impose personal liability on a member or manager of a limited liability company; and nullifying the Supreme Court of Appeals of West Virginia’s decision in *Joseph Kubican v. The Tavern, LLC*. 232 W. Va. 268, 752 S.E.2d 299 (2013).

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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 264, Requiring courts to order restitution to crime victims.

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

Com. Sub. for Senate Bill 264 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-11A-4 of the Code of West Virginia, 1931, as amended, relating to requiring courts to order restitution to victims of crime where it is economically practicable; providing for consideration of economic hardship within the order; and providing for the definition of any person compensating a victim for loss to include the West Virginia Crime Victims Compensation Fund for purposes of receiving restitution for funds paid to a crime victim.

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,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 264), under the original double committee reference, was then referred to the Committee on Finance.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 317, Authorizing three or more adjacent counties form multicounty trail network authority.

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

Com. Sub. for Senate Bill 317 (originating in the Committee on Natural Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10, §20-14A-11, and §20-14A-12, all relating generally to authorizing three or more adjacent counties to form a multicounty trail network authority; providing a statement of legislative purpose and findings; defining terms; providing that an authority is a public corporation and joint development entity; providing that a county that is adjacent to an authority may join the authority as a participating county upon approval of the board of the authority and the county commission of the county wishing to participate; providing that two existing authorities may merge upon approval of the boards of both authorities; providing for appointment of individuals to the board of an authority and for the filling of vacancies in the board; prescribing the terms of appointment to a board; requiring quarterly meetings of a board; describing how a quorum is established; authorizing a board to promulgate bylaws and rules; providing that an authority is subject to Freedom of Information Act laws; describing the powers and duties of an authority; requiring a board to appoint an executive director; describing powers and duties of an executive director; authorizing employment of staff; requiring creation of an annual budget; providing for payment of an authority's expenses; allowing reimbursement of board member expenses; establishing financial audit requirements; requiring reporting and oversight of state funds; prohibiting certain actions by users of recreational area land and providing criminal penalties; limiting the liability of owners of land used by an authority; setting forth purchasing and bidding procedures for authority contracts and purchases; providing criminal penalties for violation of purchasing and bidding requirements; prohibiting certain purchasing contracts with vendors that create conflicts of interest; providing criminal penalties for entering into prohibited purchasing contracts creating conflicts of interest; providing civil remedies for participating counties challenging purchasing contracts violating purchasing or bidding requirements or conflict of interest prohibitions; and providing for severability.

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,

Mark R. Maynard,
Chair.

The bill (Com. Sub. for S. B. 317), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Senate Bill 386—A Bill to amend and reenact §5-16-25 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-16-27; and to amend said code by adding thereto a new section, designated §11B-2-15a, all relating generally to funding of Public Employees Health Insurance Program; requiring the finance board to maintain a reserve fund at actuarially recommended amounts of at least 10 percent of plan costs; removing requirement to transfer moneys resulting from plan savings into reserve fund; removing the cap in reserve fund of 15 percent before a transfer to West Virginia Retiree Health Benefit Trust Fund; establishing PEIA Rainy Day Fee and providing for its assessment and collection in current fiscal year of the state; providing for the Legislature to authorize assessment of PEIA Rainy Day Fee in subsequent fiscal years; establishing PEIA Rainy Day Fund as special, nonexpiring, interest-bearing revenue account in the State Treasury to be funded by PEIA Rainy Day Fee assessments; authorizing the Secretary of Revenue to assess and collect fee and give special revenue agencies additional time to pay fee when undue hardship exists; providing for the administration of the fund, including investment of funds, transfer of funds, and purposes for which the fund can be used; and authorizing the promulgation of emergency and legislative rules.

Referred to the Committee on Finance.

By Senator Weld:

Senate Bill 387—A Bill to amend and reenact §5-1-10 of the Code of West Virginia, 1931, as amended, relating to the authorization of the Governor to seek the return of fugitives when found in another state or the District of Columbia; providing for return of persons who have been improperly released from confinement; and updating terms, titles, and cross-references.

Referred to the Committee on the Judiciary.

By Senators Jeffries, Hamilton, Tarr, and Beach:

Senate Bill 388—A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to equalizing the criminal penalties for intimidating and retaliating against public officers and employees, jurors, and witnesses; increasing penalty for intimidation of such persons to a felony; and establishing criminal penalties.

Referred to the Committee on the Judiciary.

By Senators Maynard, Beach, Cline, and Hamilton:

Senate Bill 389—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 said developmentally

disabled person possessing the base hunting license may hunt when accompanied and directly supervised by a person 18 years of age or older; and providing for criminal penalties.

Referred to the Committee on Natural Resources.

By Senators Maynard, Tarr, Plymale, Cline, and Sypolt:

Senate Bill 390—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31G-5-1 and §31G-5-2, all relating to determining 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 determining 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; and requiring certain reports be submitted to certain officials and committees.

Referred to the Committee on Economic Development.

By Senators Takubo, Baldwin, Beach, Clements, Hamilton, Lindsay, Palumbo, Weld, and Cline:

Senate Bill 391—A Bill to amend and reenact §5-11-2, §5-11-3, §5-11-4, §5-11-8, §5-11-9, and §5-11-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5-11A-3, §5-11A-5, §5-11A-6, and §5-11A-7 of said code, all relating to unlawful discriminatory practices in categories covered by the Human Rights Act and the Fair Housing Act; prohibiting discrimination based upon age and sexual orientation, or gender identity; and defining “sexual orientation” and “gender identity”.

Referred to the Committee on the Judiciary.

By Senators Weld and Clements:

Senate Bill 392—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-3-14a, relating to the payment of invoices received by the Division of Corrections and Rehabilitation for contract work not otherwise specifically provided for in this article; and requiring audit of the claim by the division.

Referred to the Committee on Government Organization.

By Senators Sypolt, Azinger, Baldwin, Blair, Boso, Clements, Hamilton, Jeffries, Maynard, Hardesty, Rucker, Smith, Takubo, Tarr, Plymale, Beach, Cline, Roberts, Swope, and Trump:

Senate Bill 393—A Bill to amend and reenact §19-19-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §19-19-7 and §19-19-8, all relating to the right to farm; providing for an amended definition of “agriculture”; providing for protections to agriculture operations from nuisance litigation if the facility has been in operation for more than one year; and providing a severability clause.

Referred to the Committee on the Judiciary.

Senators Tarr, Cline, and Sypolt offered the following resolution;

Senate Concurrent Resolution 15—Requesting the Joint Committee on Government and Finance study the feasibility of requiring all state agencies that submit budgets for their annual operations, and collect fees and fines that support these budgets, to deposit these funds to the General Revenue Fund.

Whereas, There are numerous state agencies whose budgets are either partially or entirely funded through fees and fines that are deposited into special funds. These agencies also benefit from legislative appropriations from the budget every fiscal year; and

Whereas, It may be a more practical fiscal approach to require that these fees and fines be deposited into the General Revenue Fund of the state from which these agencies may seek legislative approval for funds needed in addition to their original budget requests; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of requiring all state agencies that submit budgets for their annual operations, and collect fees and fines that support these budgets, to deposit these funds to the General Revenue Fund; and, be it

Further Resolved, That the Joint Committee on Government and Finance is hereby requested to study and analyze the number of special funds created for the deposit of fees and fines, the annual dollar amount of these deposits, and the feasibility of having all of these special funds for fees and fines be deposited into the General Revenue Fund; 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.

Which, under the rules, lies over one day.

Senators Beach, Prezioso, Plymale, Baldwin, Stollings, Unger, Smith, Jeffries, Sypolt, and Swope offered the following resolution:

Senate Resolution 14—Celebrating the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia.

Whereas, Monongalia County is known as the “mother county”, in reference to the many other counties created from its original territory. Monongalia County was founded in 1776 from the West Augusta County of Virginia, following small settlements along the Monongahela River and its tributaries to the Ohio River, and settled by a small group of people along the banks of Decker’s Creek; and

Whereas, Monongalia County, being the third-largest county by population (104,622) of the 55 counties of West Virginia, has had an annual growth rate exceeding 1.6 percent for more than a decade; and

Whereas, Monongalia County was recognized by the West Virginia Association of Counties with the first Patti Hamilton Imagine Award for the efforts of community leaders from the public and private sectors to cooperate and collaborate on innovative ways to solve the region's problems; and

Whereas, Monongalia County is home to West Virginia University, a public land-grant institution, founded in 1867, and recognized as a top research university by the Carnegie Foundation for the Advancement of Teaching. West Virginia University welcomes and shapes the minds of students from across the State of West Virginia, every state in the United States, and approximately 100 other nations; and

Whereas, Monongalia County has an award-winning baseball park, which is the home of the West Virginia University baseball team and the home of the West Virginia Black Bears minor league team, providing all our citizens the ability to follow their baseball heroes throughout their Pittsburgh Pirates career; and

Whereas, Monongalia County offers to its citizens and visitors from around the world: The best in medical care; tourism experiences from Mountainfest to the University Arts Series; a beautiful view atop Cooper's Rock to a peaceful stroll on the Caperton Trail; top-rated educational experiences at all levels; a thriving and innovative business community; a nationally acclaimed economic model; and a place that offers big-city amenities with the neighborly feel of small-town life; and

Whereas, Monongalia County has been recognized in recent years in the following ways: Best Performing Small Metros (Milken Institute); Best Small Metros for Business and Careers (Forbes); Best Quality of Life and Knowledge Worker Metros (Expansion Manage); Smart Places to Live (Kiplinger's); Boom Town (Inc.); Morgantown—Top College Destination (American Institute for Economic Research); Designated Retirement Community (CLIC); Best Places to Retire for Under \$100 a Day (AARP); Most Secure Small Cities (Farmers Insurance); Adventure Town (National Geographic Adventure Magazine); Best Small Town to Live (Men's Journal); and Best Sports Cities (Sporting News); and

Whereas, In Monongalia County, from Blacksville to Star City, from Westover to Granville, in the heart of Morgantown and everywhere in between, every day is a great day to be a Mountaineer; therefore, be it

Resolved by the Senate:

That the Senate hereby celebrates the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia; and, be it

Further Resolved, That the Senate acknowledges the vibrancy and contributions made to our state and nation by the people, past and present, of Monongalia County; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Monongalia County.

At the request of Senator Beach, 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 Senators Beach, Sypolt, Clements, Smith, Prezioso, and Maroney regarding the adoption of Senate Resolution 14 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:18 a.m., the Senate recessed to present Senate Resolution 14.

The Senate reconvened at 11:23 a.m. and, at the request of Senator Rucker, 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.

Senators Sypolt, Smith, Plymale, Baldwin, Stollings, Unger, Beach, Jeffries, and Swope offered the following resolution:

Senate Resolution 15—Designating January 22, 2019, as Preston County Day at the Legislature.

Whereas, The Cheat River is a mighty river borne from a small stream on Cheat Mountain and comprised of five notable forks, which join and flow north through Preston County to its confluence with the Monongahela River; and

Whereas, The Cheat River watershed is one of the most ecologically intact river systems in the eastern United States; and

Whereas, The Cheat River was West Virginia's first commercially rafted river; and

Whereas, The Cheat River was named one of America's Most Endangered Rivers due to toxic acid mine drainage pollution that left the lower section of the river completely void of any life; and

Whereas, In 1994, Friends of the Cheat formed in Preston County to address the long-standing issues of the polluted Cheat River; and

Whereas, Friends of the Cheat established its mission to restore, preserve, and promote the outstanding natural qualities of the Cheat River watershed; and

Whereas, The Cheat River has been reborn, maintaining good water chemistry and a healthy fishery from headwaters to mouth; and

Whereas, The community is working together to boost economic opportunities in Preston County through new and improved outdoor recreation, emphasis on water quality, and access to public lands; and

Whereas, Friends of the Cheat maintain five public accesses to the Cheat River. They also supported the creation of the Cheat River Water Trail, which maintains nine more public accesses; and

Whereas, Friends of the Cheat host multiple outreach events yearly, the largest being the Cheat River Festival, with over 3,000 attendees travelling from all over to support and celebrate successful restoration and recreation on the Cheat River; and

Whereas, Friends of the Cheat was named 2018 Watershed of the Year by the West Virginia Watershed Network; and

Whereas, Friends of the Cheat is a 2018 recipient of an Abandoned Mine Land pilot grant for the Re-Create Project, which will construct the 8.5-mile Cheat River Rail-Trail, an acid mine drainage learning park, and support “trail town” modeling in Kingwood, Tunnelton, Albright, and Rowlesburg; and

Whereas, Preston County is proud to help lead the state in recognizing the value of outdoor recreation, public lands, and water quality control, and their importance in the future economic health of West Virginia; and

Whereas, The citizens of Preston County travel to the state capitol on an annual basis during the legislative session to share their accomplishments, aspirations, and concerns with lawmakers; and

Whereas, It is fitting to recognize Preston County for its contributions to the economic success and future development in the State of West Virginia; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 22, 2019, as Preston County Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives from Preston County.

At the request of Senator Sypolt, 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 Senators Sypolt, Beach, and Smith regarding the adoption of Senate Resolution 15 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 12, US Army CPL Lee Roy Young 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 13, US Marine SGT Stephen E. Drummond 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 14, William “Bill” Thurman King 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 Resolution 12, Congratulating Ripley High School girls' track team for winning 2018 Class AAA state championship.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Tarr, 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 Tarr regarding the adoption of Senate Resolution 12 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 3, Establishing WV Small Wireless Facilities Deployment Act.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 3) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 3) 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 62, Requiring participation in drug court program before discharge of certain first-time drug offenses.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 62) 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 152, Relating generally to criminal offense expungement.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 152 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Tarr—1.

Absent: None.

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. 152) 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 240, Repealing certain legislative rules no longer authorized or are obsolete.

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: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 240) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 240) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 1, Increasing access to career education and workforce training.

On second reading, coming up in regular order, was read a second time.

On motions of Senators Prezioso, Facemire, Ihlenfeld, Palumbo, Plymale, Stollings, and Unger, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page two, section six, line sixteen, after the word "Schools," by inserting the words "Chancellor of the Higher Education Policy Commission,";

On page seven, section eleven, by striking out all of section eleven and inserting in lieu thereof a new section, designated section eleven, to read as follows:

§18-2E-11. Advanced Career Education.

(a) The Legislature hereby makes the following findings:

(1) Preparing West Virginia students to achieve post-secondary career education and to excel in the workforce is a responsibility shared among all state education agencies and institutions. The state's education agencies and institutions can fulfill this responsibility by establishing partnerships that enable students to attain advanced career education and valuable workforce skills in a more efficient and advantageous manner;

(2) The formation of partnerships between public secondary schools, four-year colleges and universities that offer occupational associate degrees, and community and technical colleges which establish advanced career education programs would ensure that a full range of community and technical college programs and services are provided in all areas of the state;

(3) Programs which create clear and efficient pathways that begin during secondary education and lead to obtaining advanced certifications and occupational associate degrees will increase the number of students that ultimately obtain a post-secondary credential or degree; and

(4) West Virginia's economic prosperity is directly tied to the level and quality of its workforce career education. Providing the students of this state with increased access to career education will not only improve the general well-being of its citizens, but greatly enhance the economic prosperity of the state.

(b) The purpose of this section and the Advanced Career Education (ACE) programs authorized herein is to connect secondary schools with both four-year colleges and universities that offer associate degrees and community and technical colleges to accomplish the following:

(1) Prepare secondary students for success in post-secondary education and the workforce; and

(2) Provide more opportunities for secondary students to earn post-secondary college credits, certifications, and occupational associate degrees.

(c) To effectuate the purposes set forth in §18-2E-11(b) of this code, four-year colleges and universities that offer occupational associate degrees, community and technical colleges and the career technical education centers, county boards of education, shall establish partnerships that provide for ACE programs which feature defined pathways that begin when a student is in secondary education and that ultimately lead to an occupational associate degrees awarded by four-year colleges and universities that offer associate degrees or community and technical colleges and advanced certifications. ACE programs shall be equally available to public, nonpublic, and homeschool students.

(d) ACE programs shall include pathways that consist of a curriculum of courses leading to advanced certifications or an occupational associate degree that have been deemed to satisfy a workforce need as determined by the Department of Commerce. The Department of Commerce shall, on occasion, but at least annually, provide written notification to the State Board of Education, the Higher Education Policy Commission, and the West Virginia Council for Community and Technical College Education a determination of areas of workforce need within the state.

(e) The State Superintendent of Schools, the Chancellor of the Higher Education Policy Commission, or their designees, and the Chancellor of the Council for Community and Technical College Education, or their designees, shall facilitate the ACE programs. At a minimum, an ACE program shall satisfy the following objectives:

(1) Provide additional opportunities to students in this state to attain advanced certifications and occupational college credentials through ACE pathways;

(2) Increase the number of students in this state that attain advanced certifications and occupational college credentials through ACE pathways;

(3) Allow students in this state to attain advanced certifications and occupational college credentials through ACE pathways at little or no cost;

(4) Ensure that ACE pathways provide a clear roadmap to the courses and requirements necessary to attain advanced certifications and occupational college credentials; and

(5) Ensure that course requirements within ACE pathways are not duplicated.

(f) The board, commission, and council shall jointly promulgate guidelines for the administration of ACE programs and pathways, which must be affirmatively adopted by the board, commission, and the council. At a minimum, such guidelines shall provide for the following:

(1) That ACE program partnerships established between four-year colleges and universities that offer associate degrees, community and technical colleges and career technical education centers and county boards of education shall be reduced to written partnership agreements;

(2) The information required to be contained within partnership agreements;

(3) That ACE programs and pathways must meet the requirements of the accrediting entity for the four-year college or university that offers occupational associate degrees or the community and technical college awarding the applied associate degrees or advanced certificates;

(4) That partnership agreements shall be approved by the State Superintendent of Schools, the Chancellor of the Higher Education Policy Commission, or their designees, and the Chancellor for the Council for Community and Technical College Education, as applicable; and

(5) Any other provisions necessary to effectuate the purposes of this section.

(g) The Division of Vocational Education and the council shall maintain and annually report to the Governor and the Legislative Oversight Commission on Education Accountability the following information about ACE programs:

(1) The identity and number of partnership agreements;

(2) The ACE programs and pathways that are being utilized by career technical education centers, county boards of education, four-year colleges or universities that offer occupational associate degrees, and community and technical colleges; and

(3) The nature and number of degrees and certifications awarded to students participating in ACE programs by each four-year college or university that offers occupational associate degrees, and community and technical college and career technical education center.;

On page fifteen, section three, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

§18C-9-3. Definitions.

As used in this article:

“Applied Associate Degree” means an associate of applied science degree in which not more than 21 credit hours of the required curriculum consists of general education core courses.

“Commission” means the Higher Education Policy Commission;

“Council” means the West Virginia Council for Community and Technical College Education;

“Eligible institution” means a four-year college or university that offers associate degrees under the authority of the Higher Education Policy Commission and public community and technical college institution under the authority of the West Virginia Council for Community and Technical College Education satisfying the requirements of participating in Advanced Career Education (ACE) program partnerships in accordance with §18-2E-11 of this code;

“Eligible post-secondary program” means a curriculum of courses leading to a certificate or associate degree at an eligible institution which satisfies a course of study that has been deemed to satisfy a workforce need as determined by the Department of Commerce in accordance with §18-2E-11(d) of this code. “Eligible post-secondary program” does not include any certificate or associate degree created by an eligible institution after the effective date of this section;

“Qualifying Tuition” means such tuition charges as are charged to a student enrolled in an eligible post-secondary program at an eligible institution and are charged due to enrollment in courses which are required for the completion of the eligible post-secondary program, consistent with the published academic curriculum of the eligible institution. Under no circumstances shall enrollment by an otherwise eligible student in more than a total of 21 credit hours of general education core or other courses which are designated for mandatory transfer of credits among state institutions of higher education qualify for qualifying tuition; and

“Tuition” means the semester or term charges imposed by an eligible institution and, additionally, all mandatory fees required as a condition of enrollment by all students.;

On page fifteen, section four, by striking out all of section four and inserting in lieu thereof a new section, designated section four, to read as follows:

§18C-9-4. WV Invests Grant Program.

(a) There is hereby created a grant program known as the WV Invests Grant Program, which shall be administered by the vice chancellor for administration and the commission in accordance with this article.

(b) The council or commission shall award WV Invests Grants pursuant to the following terms and conditions:

(1) A WV Invests Grant may only be awarded to applicants satisfying the requirements provided in §18C-9-5 of this code;

(2) The maximum amount of a WV Invests Grant shall be the cost of tuition charged to all students for coursework leading to completion of the chosen applied associate degree or certificate, less all other state and federal scholarships and grants for which the student is eligible. All other state and federal scholarships and grants for which the grant recipient is eligible shall be deducted from the amount of the WV Invests Grant for each individual student;

(3) Grant payments shall be made directly to the eligible institutions;

(4) If a grant recipient transfers from one eligible institution to another, the grant is transferable only with approval of the vice chancellor for administration;

(5) A WV Invests Grant may be used at any eligible institution to seek an applied associate degree or certificate in an eligible post-secondary program. An institution is not required to accept

a grant recipient for enrollment and may enforce its own admission requirements, standards, and policies; and

(6) If a WV Invests Grant recipient terminates enrollment for any reason during the academic year, the unused portion of the grant shall be returned by the institution to the council or commission, as applicable, in accordance with the council's or commission's policy for issuing refunds. The council or the commission shall transfer such funds to the WV Invests Fund for allocation and expenditure.

(c) On or before January 1 of each year, the council and the commission shall provide to the Legislature and the Governor a report on the WV Invests Grant Program, which shall include, but not be limited to, research and data concerning student success and grant retention.

(d) The council and the commission shall propose legislative rules for legislative approval pursuant to §29A-3A-1 et seq. of this code to implement the provisions of this article, which shall provide for:

(1) Application requirements and deadlines including provisions which enforce the limitations upon eligibility established in this article;

(2) Appeal procedures for the denial or revocation of the grant; and

(3) Any other provisions necessary to effectuate the purposes of this article.

(e) The Legislature hereby declares that an emergency situation exists and, therefore, the council and the commission may establish, by emergency rule, under the procedures of §29A-3A-1 et seq. of this code, a rule to implement the provisions of this article.

(f) Beginning with the 2021 fiscal year, and for every fiscal year thereafter, any appropriation by the Legislature to support and or alleviate the cost to citizens in this state to obtain advanced certifications and applied associate degrees shall only be distributed to those community and technical colleges or four-year colleges or universities that offer occupational associate degrees that form one or more partnerships to establish ACE programs and pathways. Once distributed, such funds may be used to support any program or pathway leading to the award of an applied associate degree or certification.;

And,

On page twenty, section six, line twelve, after the word "administration" by inserting the words "or commission".

Following extended discussion,

(Senator Blair in the Chair.)

Following discussion,

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

The question being on the adoption of the amendments offered by Senators Prezioso, Facemire, Ihlenfeld, Palumbo, Plymale, Stollings, and Unger to the bill (Com. Sub. for Com. Sub. for S. B. 1), and on this question, Senator Prezioso demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendments offered by Senators Prezioso, Facemire, Ihlenfeld, Palumbo, Plymale, Stollings, and Unger to the bill rejected.

On motions of Senators Plymale, Prezioso, Facemire, Ihlenfeld, Palumbo, Stollings, and Unger, the following amendment to the bill (Com. Sub. for Com. Sub. for S. B. 1) was next reported by the Clerk:

On page thirteen, after line eighty-seven, by inserting a new section, designated section sixteen, to read as follows:

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

§18B-3C-16. Encouragement of collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

(a) The Legislature finds that apprenticeship programs provide a valuable educational opportunity that can be enhanced by community and technical colleges and four-year colleges and universities that offers associate degrees. Accordingly, the Legislature hereby encourages, but is not requiring, community and technical colleges and four-year colleges and universities that offers associate degrees to enter into collaborative agreements with federally registered apprenticeship programs that are registered with the United States Department of Labor.

(b) On or before January 1 of each year, the council shall provide to the Legislature and the Governor a report regarding the collaborative agreements between community and technical colleges and federally registered apprenticeships programs. The report should identify those community and technical colleges that have entered into a collaborative agreement with federally registered apprenticeship programs, the number of students participating in such apprenticeship programs, the number of students employed in a relevant field of study subsequent to completing an apprenticeship program in cooperation with the community and technical college, and the average compensation of the students employed in a relevant field of study subsequent to completion of the apprenticeship program in cooperation with a community and technical college.

Following extended discussion,

The question being on the adoption of the amendment offered by Senators Plymale, Prezioso, Facemire, Ihlenfeld, Palumbo, Stollings, and Unger to the bill, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senators Plymale, Prezioso, Facemire, Ihlenfeld, Palumbo, Stollings, and Unger to the bill rejected.

The bill (Com. Sub. for Com. Sub. for S. B. 1) was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 18, Relating to crimes committed on State Capitol Complex.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

On pages one and two, lines seven through twenty-two, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) It is unlawful for any person to bring upon the State Capitol Complex any weapon as defined in §61-7-2 of this code: *Provided*, That a person ~~who holds a valid, current concealed weapons permit issued by a sheriff of this state or the appropriate authority of another jurisdiction who may lawfully possess a firearm~~ may keep a firearm in his or her motor vehicle upon the State Capitol Complex if the vehicle is locked and the weapon is out of normal view. It is unlawful for any person to willfully deface any trees, wall, floor, stairs, ceiling, column, statue, monument, structure, surface, artwork, or adornment in the State Capitol Complex. It is unlawful for any person or persons to willfully block or otherwise willfully obstruct any public access, stair, or elevator in the State Capitol Complex after being asked by a law-enforcement officer acting in his or her official capacity to desist: *Provided, however*, That, in order to preserve the constitutional right of the people to assemble, it is not willful blocking or willful obstruction for persons gathered in a group or crowd if the persons move to the side or part to allow other persons to pass by the group or crowd to gain ingress or egress: *Provided further*, That this subsection does not apply to a law-enforcement officer acting in his or her official capacity.

Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 or confined in jail not more than six months, or both.

The bill (Com. Sub. for S. B. 18), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 255, Relating to Emergency Medical Services Advisory Committee.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 354, Expiring funds to balance of Auditor's Office - Chief Inspector's Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

Com. Sub. for Senate Bill 223, Authorizing Department of Commerce promulgate legislative rules.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for Senate Bill 253, Protecting consumers from automatic purchase renewal and continuous service offers.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Hamilton.

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 359** (*Creating Youth Mental Health Protection Act*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:36 p.m., the Senate adjourned until tomorrow, Wednesday, January 23, 2019, at 11 a.m.

SENATE CALENDAR

**Wednesday, January 23, 2019
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 15 - Studying feasibility of requiring all state agencies that collect fees and fines to deposit those funds in General Revenue Fund

THIRD READING

Eng. Com. Sub. for Com. Sub. for S. B. 1 - Increasing access to career education and workforce training

Eng. Com. Sub. for S. B. 18 - Relating to crimes committed on State Capitol Complex (original similar to HB2092)

Eng. Com. Sub. for S. B. 255 - Relating to Emergency Medical Services Advisory Committee

Eng. S. B. 354 - Expiring funds to balance of Auditor's Office - Chief Inspector's Fund

SECOND READING

Com. Sub. for S. B. 223 - Authorizing Department of Commerce promulgate legislative rules (original similar to HB2246)

Com. Sub. for S. B. 253 - Protecting consumers from automatic purchase renewal and continuous service offers

FIRST READING

Com. Sub. for S. B. 258 - Establishing common law "veil piercing" claims not be used to impose personal liability

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2019

Wednesday, January 23, 2019

2 p.m.

Agriculture & Rural Development

(Room 208W)