

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE  
REGULAR SESSION, 2024  
FORTY-SIXTH DAY

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Charleston, West Virginia, Saturday, February 24, 2024

The Senate met at 10:09 a.m.

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

Prayer was offered by the Honorable Vince S. Deeds, a senator from the tenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jason Barrett, a senator from the sixteenth district.

Pending the reading of the Journal of Friday, February 23, 2024,

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.

At the request of Senator Takubo, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant the family of Hershel "Woody" Williams privileges of the floor for the day.

The Senate proceeded to the third order of business.

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

**Eng. Senate Bill 658**, Supplementing and amending appropriations to Department of Administration, Public Defender Services.

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 4191**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-12a, relating to the requirements imposed on social media companies to prevent corruption and provide transparency of election-related content made available on social media websites; providing for equal opportunities for all

candidates and political parties to speak without policy or partisan-based censorship; aiming to uphold the integrity of elections by ensuring election-related content hosted, posted, and made available on social media websites is not monetized or otherwise used or manipulated for nefarious purposes; providing findings; defining terms; requiring and forbidding certain conduct; providing exceptions for application; providing for appeal of decisions; providing penalties for violation; and providing rulemaking authority.

Referred to the Committee on Government Organization; and then 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. Com. Sub. for House Bill 5235**—A Bill to amend and reenact §61-8B-5 and §61-8B-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8D-5 and §61-8D-6 of the Code of West Virginia, 1931, as amended, all relating to increasing penalties for child sexual assault and sexual abuse, and for distributing, possessing, and transporting material depicting a child engaged in sexually explicit conduct, and to clarify that failure to report sexual assault, sexual abuse, or sexual exploitation of a child is a felony.

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. Com. Sub. for House Bill 5395**—A Bill to amend and reenact §21A-7-17 of the Code of West Virginia, 1931, as amended, relating to judicial review of Board decisions; and amending the status of the commissioner shall in relation to judicial review of Board decisions; and to repeal §21A-7-20 of said code, relating to repealing the section making the Board of Review of the West Virginia Bureau of Employment a party to judicial action and identifying the Board's legal counsel.

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 5520**—A Bill to amend and reenact §49-4-727, §49-4-729, and §49-4-733 of the Code of West Virginia, 1931, as amended, all relating to juvenile competency; repealing the presumption of competence of a child 14 years of age or older; repealing the presumption of incompetence of a child under the age of 14 years; and clarifying that a juvenile under the age of 14 years may not be detained in certain circumstances.

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 5593**—A Bill to amend and reenact §29-12-3 of the Code of West Virginia, 1931, as amended, relating to the creation, composition, qualifications, and compensation of the State Board of Risk and Insurance Management; continuing the board; providing for voting membership of the board; providing qualifications of citizen members; providing procedures for

appointment of citizen members; providing initial appointment terms of citizen members; providing terms of subsequent appointment of citizen members; providing procedures for vacancy, expiration of term, and removal of citizen members; providing end date for term of citizen members appointed prior to the effective date of the reenactment of this section; authorizing reappointment of any qualified citizen member appointed prior to the effective date of the reenactment; providing that Insurance Commissioner shall serve as non-voting board secretary; and providing for compensation of board members.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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 5647**—A Bill to amend and reenact §11-27-10a of the Code of West Virginia, 1931, as amended, relating to increasing and maintaining the bracketed tax rates on the privilege of establishing or operating a health maintenance organization; specifying effective dates; and providing a process for rates to be certified to the tax commissioner and notice to be provided.

Referred to the Committee on Finance.

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 5662**—A Bill to amend and reenact §61-8D-2, §61-8D-2a, §61-8D-3, §61-8D-3a, §61-8D-4, and §61-8D-4a of the Code of West Virginia, 1931, as amended, all relating to murder of a child by refusal or failure to supply necessities, or by delivery, administration or ingestion of a controlled substance; death of a child by a parent, guardian, or custodian or other person by child abuse; child abuse resulting in injury; child abuse resulting in risk of injury; female genital mutilation; child neglect resulting in injury; child neglect creating risk of injury; child neglect resulting in death.

Referred to the Committee on the Judiciary.

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

**House Concurrent Resolution 8**—Requesting the Division of Highways name a bridge bearing the Bridge Number: 14-050/00-007.31 (14A120), (39.33950, -78.77510) locally known as ROMNEY BRIDGE, carrying US 50 over SOUTH BR POTOMAC RIVER in Hampshire County. the "Judy Brothers Memorial Bridge".

**House Concurrent Resolution 66**—Requesting the Division of Highways name Bridge Numbers: 20-077/00-110.10 (NB & SB) (20A228, 20A446), (38.46281, -81.64366) locally known as I-77 TUPPER CREEK BRIDGES 110.10 NB & SB, carrying IS 77 over CR 29 in Kanawha County. the "U. S. Army SP4 Lonnie "Bill" Walker Memorial Bridge".

The preceding resolutions were referred to the Committee on Transportation and Infrastructure.

**Executive Communications**

The Clerk presented the following communications from His Excellency, the Governor, regarding bills approved by him:



*Jim Justice*  
*Governor of West Virginia*

February 23, 2024

The Honorable Lee Cassis, Clerk  
West Virginia Senate  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Senate Bill No. One Hundred Seventy-One (171), which was presented to me on February 19, 2024.

Committee Substitute for Senate Bill No. Three Hundred Fifty-Four (354), which was presented to me on February 19, 2024.

You will note that I have approved these bills on February 23, 2024.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice".

Jim Justice  
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk



*Jim Justice*  
*Governor of West Virginia*

February 23, 2024

The Honorable Stephen J. Harrison, Clerk  
West Virginia House of Delegates  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Committee Substitute for House Bill No. Four Thousand Eight Hundred One (4801), which was presented to me on February 19, 2024.

You will note that I have approved this bill on February 23, 2024.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice  
Governor

JJ/mc

cc: The Honorable Lee Cassis

The Senate proceeded to the fourth order of business.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Com. Sub. for Senate Bill 468** (originating in the Committee on Education), Requiring course in public schools on human development.

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

**Com. Sub. for Com. Sub. for Senate Bill 468** (originating in the Committee on Rules)—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to the required instruction in human growth and development and the Holocaust; providing for courses to include human growth and development related to pregnancy and human development inside the womb; requiring methods of presenting this instruction; requiring age appropriate instruction and reading on the Holocaust.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 468) contained in the preceding report from the Committee on Rules was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 470** (originating in the Committee on Banking & Insurance), Uniform Special Deposits Act.

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

**Com. Sub. for Com. Sub. for Senate Bill 470** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-9-1, §31A-9-2, §31A-9-3, §31A-9-4, §31A-9-5, §31A-9-6, §31A-9-7, §31A-9-8, §31A-9-9, §31A-9-10, §31A-9-11, §31A-9-12, §31A-9-13, §31A-9-14, §31A-9-15, and §31A-9-16, all relating to the Uniform Special Deposits Act; providing citation; defining terms; providing for applicability to special deposits in certain circumstances; providing exceptions; allowing variation by agreement or amendment; setting forth requirements for a special deposit; requiring permissible purpose for special deposit; allowing termination of special deposit in certain circumstances; describing when bank is obligated to pay beneficiary; clarifying who has a property interest in special deposit; providing for creditor process enforceability in certain circumstances; permitting injunctive or similar relief by court; generally prohibiting recoupment or set off against

special deposit; providing exceptions to prohibition on recoupment or set off against special deposit; describing duties and liability of bank holding special deposit; terminating special deposit after five years unless otherwise agreed; providing for payment of remaining balance; providing for supplementation of article by specified West Virginia laws; providing for promotion of uniformity; and providing applicability after effective date.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,  
*Vice Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 470) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 482** (originating in the Committee on Government Organization), Relating generally to Ethic's Commission's rule making authority and lobbying rules.

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

**Com. Sub. for Com. Sub. for Senate Bill 482** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §6B-2-2 of the Code of West Virginia, 1931, as amended; and to repeal §6B-2A-1 of said code, all relating to the rule-making authority of the Ethics Commission; authorizing the Ethics Commission to propose legislative rules to carry out purposes of chapter; and requiring disclosure forms, statements, and reports required by chapter to be made in a manner prescribed by legislative rule.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,  
*Vice Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 482) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 503**, Protecting belief-based student organizations from certain types of discrimination.

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

**Com. Sub. for Senate Bill 503** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §18B-20-5 of the Code of West Virginia, 1931, as amended, relating to prohibiting state institutions of higher education from discriminating against student organizations which limit membership to those persons who adhere to the organization's sincerely-held beliefs; compliance with the organization's standards of conduct, and furthering the organization's mission or purpose.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,  
*Vice Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 503) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 717**, Prohibiting sale of tobacco products to individuals younger than 21 years of age.

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

**Com. Sub. for Senate Bill 717** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §16-9A-1, §16-9A-2, §16-9A-3, §16-9A-4, §16-9A-7, and §16-9A-8 of the Code of West Virginia, 1931, as amended, all relating to tobacco products; amending legislative intent; defining terms; prohibiting sale or gift of tobacco products to persons younger than 21 years of age; setting forth fines and criminal penalties; removing penalties for possession of a tobacco product by a person younger than the age of 21; providing that an employee who sells a tobacco product to a person younger than 21 years of age is subject to noncriminal, nonmonetary penalties; allowing an employee who sells a tobacco product to a person younger than 21 years of age to be fired under certain circumstances; permitting persons younger than 21 years of age to be used in inspections of retail outlets where tobacco products are sold; removing the West Virginia Alcohol Beverage Control Administration as an agency with authority to conduct inspections; designating the Bureau for Behavioral Health as one of the agencies to conduct inspections; removing the requirement for the West Virginia Alcohol Beverage Control Administration to submit a report; requiring the Commissioner of the Bureau for Behavioral Health to submit a report; and amending language regarding vending machines to conform to the increased age requirement.

With the recommendation that the committee substitute do pass.

Respectfully submitted,



Ryan W. Weld,  
*Vice Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 717) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Eng. Senate Bill 732**, Requiring cooperation between law-enforcement agencies and military authorities.

And has amended same.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 769**, Prohibiting certain medical exams on anesthetized patients.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on February 21, 2024;

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

Respectfully submitted,

Ryan W. Weld,  
*Vice Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 803**, Updating definitions for assessment of real property.

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

Respectfully submitted,

Ryan W. Weld,  
*Vice Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 803) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Rucker, from the Committee on School Choice, submitted the following report, which was received:

Your Committee on School Choice has had under consideration

**Senate Bill 860**, Creating alternative high-risk population public charter schools.

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

**Com. Sub. for Senate Bill 860** (originating in the Committee on School Choice)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5G-14a, relating to creating alternative high-risk population public charter schools; describing students of said schools; and requiring the state board to promulgate a rule for funding.

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,

Patricia Puertas Rucker,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 860) contained in the preceding report from the Committee on School Choice was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Senate Joint Resolution 6**, Incorporation of Churches or Religious Denominations Amendment.

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

**Com. Sub. for Senate Joint Resolution 6** (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, amending section 47, article VI thereof, relating to authorizing the incorporation of religious denominations; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the committee substitute be adopted; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Ryan W. Weld,  
*Vice Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (Com. Sub. for S. J. R. 6 ) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

**Com. Sub. for Senate Concurrent Resolution 30**, Honoring Hershel "Woody" Williams as one of two WV statues in National Statuary Hall Collection.

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

The question being on the adoption of the resolution, and on this question, Senator Tarr demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (Com. Sub. for S. C. R. 30) adopted.

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Tarr, Plymale, Caputo, Weld, Stuart, Woodrum, and Oliverio as to the adoption of Committee Substitute for Senate Concurrent Resolution 30 were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, at 10:43 a.m., the Senate recessed.

The Senate reconvened at 10:46 a.m. and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 225**, Establishing revocation of authority for spending by agency in support of challenge to WV law.

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

At the request of Senator Tarr, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Tarr, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 3. LIMITATIONS ON AGENCY SPENDING.**

**§12-3-21. Limitation on agencies' use of funding.**

Notwithstanding any provision to the contrary, there is no spending authority for any political subdivision or state agency for the purposes of challenging a West Virginia state law: *Provided*, That the provisions of this section shall not apply to the Attorney General of West Virginia who may, from time to time, have reason to challenge any and all laws of the State of West Virginia: *Provided, however*, That the provisions of this section shall not apply to the Governor, Secretary of State, State Treasurer, State Auditor, the Commissioner of Agriculture, or other constitutionally elected officers when challenging a West Virginia state law directly related to the constitutional duties and functions of their respective offices.

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 225 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

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. 225) 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 306, Equipment Right to Repair 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: Barrett, Boley, Clements, Deeds, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Nelson, Phillips, Roberts, Rucker, Stover, Swope, Takubo, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

The nays were: Azinger, Caputo, Chapman, Grady, Maynard, Oliverio, Plymale, Queen, Stuart, and Tarr—10.

Absent: Smith and Woelfel—2.

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. 306) passed.

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

**Eng. Com. Sub. for Senate Bill 306**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-39-1, §19-39-2, §19-39-3, §19-39-4, §19-39-5, §19-39-6, §19-39-7, §19-39-8, and §19-39-9, all relating to creating the Equipment Right to Repair Act; creating a short title; defining terms; establishing jurisdiction of the Commissioner of Agriculture; establishing requirements; establishing limitations; providing for rulemaking; establishing violations; imposing civil penalties; authorizing civil actions, penalties, and injunctive relief; providing for applicability of article; providing for an effective date; and providing for a sunset provision.

Senator Takubo moved that the bill take effect July 1, 2024.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

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. 306) takes effect July 1, 2024.

*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 348**, Updating definition of "electioneering communication" to be consistent with FEC.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

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. 348) passed with its title.

Senator Takubo moved that the bill take effect January 1, 2025.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

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. 348) takes effect January 1, 2025.

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

**Eng. Senate Bill 452**, Designating certain water and wastewater facilities as emergency project.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 452) 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 Com. Sub. for Senate Bill 493**, Relating to use of criminal records as disqualification from authorization to practice particular profession.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 493) passed with its title.

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

**Eng. Senate Bill 650**, Supplementing and amending appropriations to Higher Education Policy Commission, Fairmont State University.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 650) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 650) takes effect from passage.

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

**Eng. Senate Bill 653**, Supplementing and amending appropriations to School Building Authority, School Construction Fund.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: Taylor—1.

Absent: Smith and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 653) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: Taylor—1.

Absent: Smith and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 653) takes effect from passage.

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

**Eng. Senate Bill 657**, Expiring funds from Excess Lottery Revenue Fund to General Revenue.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 657) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 657) 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 742**, Updating retirement eligibility for certain sheriffs.

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

At the request of Senator Nelson, unanimous consent being granted, the name of Senator Nelson was added as a co-sponsor to Engrossed Committee Substitute for Senate Bill 742 (*Updating retirement eligibility for certain sheriffs*).

The question being "Shall Engrossed Committee Substitute for Senate Bill 742 pass?"

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

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. 742) passed with its title.

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

**Eng. Senate Bill 760**, Modifying length of service for certain employees to obtain credit for retirement.

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

At the request of Senator Nelson, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Nelson, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page 3, section 2, line 56, by striking out the word "consecutive";

And,

On page 12, section 14, line 97, by striking out the words "seven consecutive" and inserting in lieu thereof the words "five calendar".

The bill, as just amended, was again ordered to engrossment.

Engrossed Senate Bill 760 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson,

Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 760) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2024.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 760) takes effect July 1, 2024.

*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 774**, Mountain Bike Responsibility Act.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Senate Bill 782**, Defining deadlines for local permits and extensions for property development or improvement.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 782) 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 824**, Increasing membership of WV Motorsport Committee.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

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. 824) passed with its title.

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

**Eng. Senate Bill 827**, Providing definition for regional distribution and dismantling center of salvage yards.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 827) 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 851**, Establishing requirements for contingency fee agreements between political subdivisions and private attorneys.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Senate Bill 864**, Clarifying reporting requirements of Grant Transparency and Accountability 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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 864) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 864) takes effect from passage.

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

**Eng. House Bill 5268**, Relating to the enhanced recovery of oil and natural gas in horizontal wells.

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, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: Chapman—1.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 5268) passed with its title.

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

**Eng. Com. Sub. for House Bill 5540**, Relating to fentanyl prevention and awareness Education (Laken's Law).

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 5540 pass?"

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 5540) passed with its title.

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

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senators Caputo, Woodrum, Oliverio, and Stuart regarding the passage of Engrossed Committee Substitute for House Bill 5540 were ordered printed in the Appendix to the Journal.

**Eng. House Bill 5549**, Relating to allowing license plates to be obtained from alternative sources when the Division of Corrections and Rehabilitation is unable to produce them.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 5549) passed.

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

**Eng. House Bill 5549**—A Bill to amend and reenact §15A-4-15 of the Code of West Virginia, 1931, as amended, relating to allowing license plates, road signs, and markers to be obtained from sources other than the Division of Corrections and Rehabilitation.

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

On motion of Senator Queen, the Senate reconsidered the vote by which in earlier proceedings today it passed

**Eng. House Bill 5268**, Relating to the enhanced recovery of oil and natural gas in horizontal wells.

The vote thereon having been reconsidered,

The question again being on the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Smith and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 5268) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 190**, Modifying definition of sexual contact.

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

**Com. Sub. for Senate Bill 442**, Providing for immunity for mental health providers who are involved in mental hygiene checks.

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

**Com. Sub. for Com. Sub. for Senate Bill 568**, Creating multi-tiered system for school absenteeism.

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

**Com. Sub. for Com. Sub. for Senate Bill 575**, Assisted Reproduction Act.

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

**Com. Sub. for Senate Bill 583**, Relating to employer liability and damages in civil actions involving commercial motor vehicles.

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

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

## **ARTICLE 7. ACTIONS FOR INJURIES.**

### **§55-7-32. Liability for employee negligence in actions involving commercial motor vehicles.**

(a) As used in this section:

"Commercial motor vehicle" means as defined in §17E-1-3(7) (A), (B), and (D) of this code, and also includes a truck tractor, road tractor, trailer, semitrailer, and pole trailer as defined in §17A-1-1 of this code. For purposes of this section, "commercial motor vehicle" does not include a vehicle serving as a common carrier of passengers, a commercial motor vehicle as defined in §17E-1-3(7)(C) of this code, a school bus as defined in §17E-1-3(33) of this code, or other vehicle that is primarily engaged in transporting passengers.

"Employer defendant" means (A) the owner of a commercial motor vehicle; (B) the employer of the person operating a commercial motor vehicle; or (C) any other person or entity that owns, leases, rents, or otherwise holds or exercises legal control over a commercial motor vehicle or operator of a commercial motor vehicle.

"Operation" means driving, operating, or being in physical control of a commercial motor vehicle in any place open to the general public for purposes of vehicular traffic.

(b) In any civil action for personal injury or wrongful death involving the operation of a commercial motor vehicle requiring a commercial driver's license, the maximum amount recoverable by each person injured or killed against the employer defendant of a commercial motor vehicle as compensatory damages for noneconomic loss may not exceed \$5 million for each occurrence, regardless of the number of claims or theories of liability.

(c) The limitation on noneconomic damages contained in subsection (b) of this section is not available to any employer defendant that does not have commercial motor vehicle insurance in the aggregate amount of at least \$3 million for each occurrence covering the personal injury that is the subject of the action.

(d) This section does not apply if the civil action involving a commercial motor vehicle arises from an incident for which an operator or driver is found to have:

(1) At the time of the incident, operated a commercial motor vehicle with an alcohol concentration of .04 or more as defined in §17E-1-14 of this code;

(2) Following the incident, refused to submit to testing required under §17E-1-15 of this code;

(3) At the time of the incident, operated a commercial motor vehicle under the influence of any controlled substance, other drug, or inhalant substance;

(4) At the time of the incident, operated a commercial motor vehicle in excess of the hours of operation established under state or federal regulations;

(5) At the time of the incident, operated a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

(6) At the time of incident, operated a commercial motor vehicle loaded in excess of the maximum gross vehicle weight rating established under state or federal regulations; or

(7) At the time of the incident, operated a commercial motor vehicle while engaging in one or more of the acts that constitute distracted driving as set forth in §17C-14-15(e) of this code.

(e) On January 1, 2026, and in each year thereafter, the limitation on compensatory damages for noneconomic loss contained in subsection (b) of this section shall increase to account for inflation by an amount equal to the Consumer Price Index published by the United States Department of Labor, not to exceed one hundred fifty percent of the amounts specified in said subsection.

(f) This section shall be effective on July 1, 2024, and shall only apply to causes of action arising after the effective date.

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

The bill (Com. Sub. for S. B. 583), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill 679**, Regulating certain plant-based derivatives, hemp-derived cannabinoid products, and Kratom.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Senate Bill 686**, Prohibiting actions for damages or attorney's fees in cases involving Board of Risk and Insurance Management.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Com. Sub. for Senate Bill 725**, Clarifying conditions for pretrial release and maximum bail amount for certain defendants.

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

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Senate Bill 751**, Creating online charitable raffles.



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

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 21A. ONLINE CHARITABLE RAFFLES.**

**§47-21A-1. Legislative intent.**

The Legislature, in recognition of the need for charitable and public service organizations to have for a practicable way of raising funds by means of the internet, declares its intent to grant the privilege of holding online raffles to those organizations as provided in this article.

**§47-21A-2. Definitions.**

For purposes of this article, unless specified otherwise:

"Charitable or public service activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by:

(1) Contributing to educational or religious purposes;

(2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty;

(3) Increasing their comprehension of, and devotion to, the principles upon which this nation was founded and to the principles of good citizenship;

(4) Making them aware of, or educating them about, issues of public concern so long as the activity or endeavor is not aimed at supporting or participating in the campaign of any candidate for public office;

(5) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people;

(6) Providing or supporting nonprofit community activities for youth, senior citizens, or the disabled;

(7) Providing or supporting nonprofit cultural or artistic activities; or

(8) Providing or supporting any political party executive committee.

"Charitable or public service organization" means a bona fide, not-for-profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary, incorporated or unincorporated association, or organization; or a volunteer fire department, rescue unit, or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any single candidate for public office.

"Commissioner" means the State Tax Commissioner.

"Conduct" means to direct the actual holding of a online raffle by activities including, but not limited to, selling tickets, collecting money, drawing or arranging for the drawing of the winning numbers or names, announcing the winning numbers or names, posting the winning numbers or names, verifying winners, and awarding prizes.

"Expend net proceeds for charitable or public service purposes" means to devote the net proceeds of an online raffle occasion or occasions to a qualified recipient organization or as otherwise provided by this article and approved by the commissioner pursuant to §47-21A-113 of this code.

"Gross proceeds" means all moneys collected or received from the conduct of an online raffle held by a licensee during a license period.

"Licensee" means any charitable or public service organization or association granted an annual or limited occasion license pursuant to the provisions of this article.

"Net proceeds" means all moneys collected or received from the conduct of an online raffle or online raffles at occasions held by a licensee during a license period after payment of the online raffle expenses authorized by §47-21A-111, §47-21A-112, and §47-21A-113 of this code.

"Person" means any individual, association, society, incorporated or unincorporated organization, firm, partnership, or other nongovernmental entity or institution.

"Patron" means any individual who participates in an online raffle by purchasing an online raffle ticket other than an individual who is participating in the conduct of the online raffle.

"Platform provider" means any third-party entity that contracts by written agreement with a licensee to host, conduct, or otherwise administer an online raffle by using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

"Qualified recipient organization" means any bona fide, not-for-profit, tax-exempt, incorporated or unincorporated association or organization which is organized exclusively for charitable or public services activities or endeavors.

"Online Raffle" has the same meaning as "raffle" as defined in §47-21-2 of this code but conducted using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

"Online raffle occasion" or "occasion" means a single online session at which a series of one or more successive online raffles is conducted by a single licensee.

"Tax-exempt association or organization" means an association or organization which is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code of 1986, as amended; or is exempt from income taxes under subsection 527(a) of that code.

"Virtually Present" means live, real-time availability by online or other electronic means and includes, but is not limited to, audio or video appearance or by an instant, live chat or messaging program.

**§47-21A-3. Authorizing the conduct of certain online raffles without a license.**

Notwithstanding any other provisions of this article to the contrary, any charitable or public service organization which has been in existence in this state for at least one year may conduct online raffles without compliance with the licensing provisions of this article: *Provided*, That any prize awarded in any single online raffle in an online raffle occasion may not exceed in \$4,000 value: *Provided, however*, That the cumulative gross proceeds derived from the conduct of online raffle occasions by the charitable or public service organization may not exceed \$15,000 during any calendar year: *Provided further*, That the charitable or public service are not subject to the record keeping provisions of §47-21A-114 of the code but shall maintain a separate accounting for the operation of online raffles. All records required by this section shall be maintained for at least three calendar years and shall be available for reasonable inspection by the commissioner.

**§47-21A-4. Who may hold online raffles; application for license; licenses not transferable.**

(a) Except as provided in §47-21A-103 of this code, only persons who are residents of this state and who are active members of any charitable or public service organization which has been in existence in this state for at least two years prior to filing an application for an online raffle license issued pursuant to §47-21A-105 and §47-21A-106 of the code may hold online raffle occasions in accordance with the provisions of this article and only during the time it holds a valid license.

(b) The charitable or public service organization applies for an online raffle license to the Tax Commissioner and shall be on a form supplied by him or her. The application shall contain the information required by §47-21A-108 of the code and any other information which the commissioner considers necessary. An online raffle may not be held and online raffle tickets may not be sold pursuant to this article until the online raffle application has been approved by the Tax Commissioner and the license has been received by the applicant: *Provided*, That an online raffle occasion may not be held and an online raffle tickets may not be sold until a 60-day filing period, which is that time period between the receipt of that application by the Tax Commissioner and the first online raffle occasion, has expired: *Provided, however*, That the Tax Commissioner shall send the applicant its license within five days after the application is approved. If the 60-day filing period has expired and the application has not been denied and the online raffle license has not been received by the applicant, the applicant may consider the application approved and begin to sell tickets for the online raffle or hold the online raffle occasion. The Tax Commissioner shall send the applicant its license within five days after the expiration of the filing period if the application has not been otherwise denied.

(c) An online raffle license issued pursuant to this article may not be transferred.

**§47-21A-105. Annual license; conditions on holding of online raffles.**

(a) A charitable or public service organization or any of its auxiliaries or other organizations otherwise affiliated with it, may apply for an annual license. Only one license per year in the aggregate may be granted to a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it: *Provided*, That for purposes of this section, the various branches, chapters, or lodges of any national association or organization

or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code, to provide for the manner for determining to which organization, whether the parent organization, an affiliate, or an auxiliary, the one license allowed under this section is granted. An annual license is valid for one year from the date of issuance. Charitable or public service organizations may not may hold a joint online raffle occasion under any annual licenses.

(b) A licensee shall utilize geo-location or geo-fencing technology to ensure that online charitable raffles patrons are located in the state of West Virginia. A licensee shall maintain in the state of West Virginia its servers used to transmit information for the purposes of patron participation.

(c) The Tax Commissioner shall provide on his or her website a list of every active and approved licensee to conduct an online raffle occasion. A licensee shall provide a conspicuous hyperlink on any online raffle ticket that is purchased by a patron to the Tax Commissioner's website. A licensee shall conspicuously display at its physical location, that was provided on its application, the approved license to conduct an online raffle.

#### **§47-21A-6. Limited occasion license; conditions on holding of online raffles.**

(a) Two or more charitable or public service organizations may hold a joint online raffle occasion provided each participating organization has been granted a limited occasion online raffle license for the jointly held occasion: *Provided*, That a licensee which holds an annual license may not obtain more than one limited occasion license.

(b) A limited occasion license is valid only for the time period specified in the application and entitles only the licensee to hold two online raffle occasions during the specified time period which may not exceed six months from the date of issuance of the limited occasion license.

(c) Subject to the limitations set forth in this section for charitable or public service organization having an annual license, a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it, may be granted only three limited occasion licenses per year in the aggregate. For purposes of this section the various branches, chapters, or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall by rulemaking provide the manner for determining to which organization, whether the parent organization, an affiliate, or an auxiliary, the three licenses allowed under this section are granted.

(d) The Tax Commissioner shall provide a hyperlink on its website that will display a list of every active and approved licensee to conduct an online raffle occasion. A licensee shall provide this hyperlink on any online raffle ticket that is purchased by a patron. A licensee shall conspicuously display at its physical location, that was provided on its application, the approved license to conduct an online raffle.

#### **§47-21A-7. License fee and exemption from taxes.**

(a) A license fee shall be paid to the Tax Commissioner for annual licenses in the amount of \$500. A license fee shall be paid to the Tax Commissioner for a limited occasion license in the amount of \$50. All revenue from the license fees shall be deposited in the special revenue account established under the authority of §11-9-2a of this code and used to support the investigatory

activities provided for in that section. The license fee imposed by this section is in lieu of all other license or franchise taxes or fees of this state and a county or municipality or other political subdivision of this state may not impose a license or franchise tax or fee on any online raffle or online raffle occasion.

(b) The gross proceeds derived from the conduct of an online raffle occasion are exempt from state and local business and occupation taxes, income taxes, excise taxes, and all special taxes. Any charitable or public service organization conducting an online raffle occasion pursuant to the provisions of this article is exempt from payment of consumers sales and service taxes, use taxes, and all other taxes on all purchases for use or consumption in the conduct of an online raffle occasion and is exempt from collecting consumers sales taxes on any admission fees and sales of online raffle tickets.

#### **§47-21A-8. Information required in application.**

An application for an online raffle license shall include the following information:

(a) The name of the applicant and the name and headquarter's address of any state or national organization of which the applicant is a local branch or lodge;

(b) The address and telephone number of the applicant organization, if any, and if the applicant organization has no telephone, then the address and telephone number of the person applying on behalf of the organization shall be supplied;

(c) For a limited occasion license, the names and addresses of two or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; and the names and addresses of the highest elected officer of the licensee and his or her officially appointed designee, one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; for an annual license, the names, addresses and telephone numbers of three or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; and the names and addresses and telephone numbers of the highest elected officer of the licensee and his or her officially appointed designee, one of whom shall be virtually present and available when the winning numbers and names are drawn, announced, posted, and verified and present when the prizes are awarded;

(e) The address and the location of any platform provider that manages a website software system, web application, method, or process for the purpose of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet. A copy of all written agreements between the licensee and the platform provider providing these services shall specifically provide a statement of all costs and fees to be incurred by the licensee for receiving these services by the platform provider. A copy of any written agreements shall be provided to the Tax Commissioner;

(f) Information required by the commissioner to satisfy him or her that the applicant meets the requirements of:

(1) Being a charitable or public service organization as defined by this article; and

(2) Being in existence in this state for at least one year prior to filing an application for an online raffle license.

(g) Designate the date or dates and the time or times when the online raffle occasions will be held;

(h) State whether the applicant has ever had a previous application for any online raffle or raffle license refused, or whether any previous online raffle license or raffle license has been revoked or suspended;

(i) State the charitable or public service purpose or purposes for which the online raffle proceeds will be expended;

(j) Provide statements to the effect that the individuals specified in subdivision (c) of this section and the officers of the applicant understand:

(1) That it is a violation of this article to allow any persons other than those authorized by this article to conduct the online raffle;

(2) That they are required to file the reports and keep the records as provided by this article; and

(3) That it is a crime to violate the provisions of this article and that a violation of the provisions may result in suspension or revocation of the online raffle license or other raffle license and denial of applications for subsequent online raffle licenses or raffle licenses;

(k) Provide a sworn statement by an authorized representative of the applicant that the information contained in the application is true to the best of his or her knowledge;

(l) Provide a list and description of estimated expenses to be incurred in connection with the holding of the online raffle occasions and the name and address of each payee;

(m) A list of the names and addresses of all officers and members of the board of directors, governors or trustees, if any, of the applicant organizations; and

(n) Any other necessary and reasonable information which the commissioner may require.

#### **§47-21A-9. Amendment of license.**

If circumstances beyond the control of the licensee prohibit it from holding any online raffle occasion in accordance with the information provided by it in its license application form, the licensee may request approval by the commissioner to modify the terms and conditions of its license.

#### **§47-21A-10. Licensee rules and regulations.**

(a) Each licensee may adopt rules and regulations, not inconsistent with or in violation of the provisions of this article, or rules promulgated to govern the conduct of online raffle occasions.

(b) Any rules and regulations adopted by the licensee shall be made available for inspection at all raffle occasions held by way of advertising these rules and regulations on its website and by being posted conspicuously at their place of operation that was provided on its application for a license. Any adopted rules and regulations are a part of the records required to be kept by §47-21A-114 of this code.

**§47-21A-11. Limits on prizes awarded; general provisions.**

Prizes may be money, real or personal property, or merchandise other than beer, wine, spirits, or alcoholic liquor as defined in §60-1-5 of this code. If the prizes are real or personal property or merchandise, the value assigned to them is their fair market value at the time of acquisition for the online raffle or at the time of purchase.

**§47-21A-12. Compensation.**

(a) A licensee may pay a salary, the minimum of which is the federal minimum wage and the maximum of which is not more than 120 percent of the state minimum wage to operators of charitable online raffles who are either:

(1) Active members of the licensee organization and who have been active members in good standing for at least two years prior to the date of filing of the application for an online charitable raffle license or the most recent filing of an application for renewal of the license; or

(2) Employees of the licensee organization or its authorized auxiliary organization.

(b) If the licensee's gross receipts from online raffle occasions equal or exceed \$100,000 for the licensee's most recently filed annual financial report, a salary may be paid to not more than eight operators.

(c) If the licensee's gross receipts from online charitable raffle occasions are less than \$100,000, but equal or exceed \$50,000 for the licensee's most recently filed annual financial report, a salary may be paid to not more than five operators.

(d) If the licensee's gross receipts from online charitable raffle occasions are less than \$50,000 for the licensee's most recently filed annual financial report, a salary may be paid to no more than three operators.

**§47-21A-13. Payment of reasonable expenses from proceeds; net proceeds disbursement.**

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of online raffle occasions, not to exceed 40 percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of the online raffle, including, but not limited to:

(1) Rent paid for the use of any premises: *Provided*, That a copy of the rental agreement was filed with the online raffle license application with any modifications to the rental agreement to be filed within 10 days of being made: *Provided, however*, That in no event may the rent paid for the use of any premises exceed the fair market value of rent for the premises;

(2) The cost to the licensee organization for equipment and supplies used to conduct the online raffle occasion;

(3) The cost to the licensee organization for advertising the online raffle occasion;

(4) The costs involved in the licensee using technology, Internet service providers, servers, or other necessary infrastructure by which to advertise and conduct the online raffle or online raffle occasion;

(5) The costs relating to any platform provider that manages a website software system, web application, method, or process for the purpose of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in §47-21A-111 of the code, may be paid out of the gross proceeds of the conduct of an online raffle.

(c) The licensee shall expend all net online raffle proceeds and any interest earned on the net online raffle proceeds for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the online raffle occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for an online raffle license for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) Gross proceeds from any online raffle occasion may not be devoted or in any manner used by any licensee or qualified recipient organization for the construction, acquisition, or improvement, of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subsection (a) of this section.

(e) The Tax Commissioner may disapprove any contract for sale of goods or services to any online raffle licensee for use in or with relation to any online raffle operation or occasion, or any lease of real or tangible personal property to any online raffle licensee for use in or with relation to any online raffle operation or occasion, if the contract or lease is unreasonable or not representative of fair market value. Disapproved contracts or leases shall be considered to be in contravention of this article, and are void. Any attempt by any online raffle licensee to engage in transactions under the terms of any disapproved lease or contract is grounds for revocation or suspension of the online raffle license or other charitable raffle license and for refusal by the Tax Commissioner to renew the online raffle license or raffle license.

(f) Any licensee which, in good faith, finds itself unable to comply with the requirements of the subsections (a) through (e) of this section shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than 60 days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose, the licensee shall file periodic reports with the commissioner as directed until the proceeds are expended.

#### **§47-21A-14. Records; commissioner audit.**

Any licensee which holds an online raffle occasion as provided by this article shall maintain a separate account and separate bookkeeping procedure for its online raffle operations. All records



required by this article shall be maintained for at least three years and shall be open to the commissioner for reasonable inspection. Whenever the commissioner has reasonable cause to believe a licensee has violated any of the provisions of this article, he or she may perform or cause to be performed an audit of the licensee's books and records.

**§47-21A-15. Advertising.**

A licensee may advertise its online raffle occasions in a manner reasonably necessary to promote the occasion.

**§47-21A-16. Annual Platform Provider license; conditions on holding of online raffles.**

A platform provider may apply for an annual Platform Provider license: *Provided*, That a platform provider that has a principal place of business located within this state shall be registered with the West Virginia Secretary of State and also possess a Business Registration Certificate from the West Virginia State Tax Department: *Provided, however*, That a platform provider that has a principal place of business located outside of this state shall be registered as an appropriate foreign corporation with the West Virginia Secretary of State and also possess a Business Registration Certificate from the West Virginia State Tax Department.

**§47-21A-17. Annual Platform Provider License fee and exemption from taxes.**

A license fee shall be paid to the Tax Commissioner for annual Platform Provider licenses in the amount of \$500. All revenue from the license fee shall be deposited in the special revenue account established under the authority of §11-9-2a of this code and used to support the investigatory activities provided for in the section.

**§47-21A-18. Information required in application for an Annual Platform Provider License.**

An application for an Annual Platform Provider license shall include the following information:

(a) The name of the applicant, the legal name of the entity, the jurisdiction and locale of incorporation, telephone number, e-mail address, and the physical and mailing address of its principal place of business;

(b) A description of methods by which they manage, administer, or oversee a website software system, web application, method, or other process for the purposes of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet;

(c) Provide statements that detail the costs and fee structures for any services that are provided by the platform provider.

(d) State whether the applicant has ever had a previous application for any license relating to the regulation of an online raffle refused, or whether any previous license relating to the regulation of an online raffle has been revoked or suspended;

(e) Provide statements to the effect that the individuals and entities specified in subdivision (a) of this section understand:

(1) That it is a violation of this article to allow any persons other than those authorized by this article to conduct business related to being a platform provider;

(2) That it is required to file the reports and keep the records as provided by this article; and

(3) That it is a crime to violate the provisions of this article and, that a violation of such provisions may result in suspension or revocation of the platform provider license and denial of applications for subsequent platform provider licenses;

(f) Provide a sworn statement by an authorized representative of the applicant that the information contained in the application is true to the best of his or her knowledge;

(g) A list of the names and addresses of all officers and members of the board of directors, if any, of the platform provider; and

(h) Any other necessary and reasonable information required by the commissioner.

#### **§47-21A-19. Records; commissioner audit.**

Any licensee which holds an Annual Platform Provider License as provided by this article shall maintain a bookkeeping procedure for all of its activities relating to being a platform provider for any charitable or public service organization conducting online raffles in the state. All records required by this article shall be maintained for at least three years and shall be open to the commissioner for reasonable inspection. Whenever the commissioner has reasonable cause to believe a licensee has violated any of the provisions of this article, he or she may perform or cause to be performed an audit of the licensee's books and records.

#### **§47-21A-20. Fraud; penalties.**

In addition to any other offense set forth in this code, any person, platform provider, or licensee that knowingly conducts or participates in a fraudulently or deceptively conducted, or administered online raffle with intent to defraud is guilty of a felony, and, upon conviction thereof, shall be fined not less than \$500 nor more than \$10,000, or imprisoned in a correctional facility not less than one, nor more than five years, or both fined and imprisoned.

#### **§47-21A-21. Obtaining license fraudulently; penalty.**

In addition to any other offense set forth in this code, any person, platform provider, or licensee that knowingly obtains or assists another person in obtaining an online raffle license or platform provider license under false, deceptive, or fraudulent pretenses is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$500 nor more than \$10,000.

#### **§47-21A-22. Violation of provisions; crime; civil penalties.**

(a) Any person, entity, or platform provider that knowingly violates any provisions of this article, other than the provisions of §47-21A-120 or §47-21A-121 of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000; and, upon a second or subsequent conviction thereof, shall be fined not less than \$100 nor more than \$100,000 or confined in jail not more than one year, or both fined and confined.

(b) In addition to any other penalty provided by law, any person, licensed or unlicensed under this article, who violates any provisions of this article, or who fails to perform any of the duties or obligations created and imposed upon them by the provisions of this article, other than the provisions of §47-21A-120 or §47-21A-121 of this code is subject to a civil penalty determined by the Tax Commissioner in an amount not to exceed \$10,000.

**§47-21A-23. Administration; rules and regulations.**

(a) The commissioner shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code, to administer the provisions of this article. The commissioner may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code, to administer the provisions of this article.

(b) The commissioner shall deny an application for any license or modification thereof if he or she finds that the issuance thereof would be in violation of the provisions of this article.

(c) The commissioner may revoke, suspend, or refuse to renew any license if the licensee or any member of a licensee organization has been convicted pursuant to §47-21A-120, §47-21A-121, or §47-21A-122 of this code, and the commissioner finds that it would be in the public interest to do so; or if the licensee has violated any of the provisions of this article: *Provided*, That before revoking or suspending any license issued under the authority of this article, the commissioner shall give at least 10 days, ~~three days for a limited occasion license~~, notice to the licensee. The notice shall be in writing, state the reason for revocation or suspension, and inform the licensee of its right to petition the Office of Tax Appeals for a hearing at which the licensee may show cause why the license should not be revoked or suspended. The notice required by this section shall be by personal or substituted service, in accordance with the West Virginia rules of civil procedure for trial courts of record, on the person who applied for the license on behalf of the licensee. The licensee may, at the time designated for the hearing, present evidence in its behalf and be represented by counsel. A decision of the Office of Tax Appeals upholding in whole or in part the revoking or suspending a license is subject to judicial review as provided in §11-10A-19 of this code.

(d) The commissioner may suspend, revoke, or refuse to renew any license issued under this article for a material failure to maintain the records or file the reports required by this article if the commissioner finds that the failure will substantially impair the commissioner's ability to administer the provisions of this article with regard to the licensee.

(e) The provisions of §29A-5-1 et seq. of this code apply to the denial, revocation, suspension of, or refusal to renew any license.

(g) The burden of proof in any administrative or court proceeding is on the applicant to show cause why any license should be issued or renewed and on the licensee to show cause why any license should not be revoked or suspended.

(h) Notwithstanding any other provision of this article, the commissioner may issue an emergency order suspending any license under the following circumstances and in the following manner:

(1) An emergency order may be issued only when the commissioner believes that:

(i) There has been a criminal violation of this article;

(ii) The action is necessary to prevent a criminal violation of this article; or

(iii) The action is necessary for the immediate preservation of the public peace, health, safety, morals, good order, or general welfare.

(2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action. This order shall be served by personal or substituted service on the licensee or the person who applied for the license on behalf of the licensee.

(3) The emergency order is effective immediately upon issuance and service upon the licensee.

(4) Within five days after issuance of an emergency order, the licensee may petition the Office of Tax Appeals to set a time and place for a hearing where the licensee may appear and show cause why its license should not be revoked.

#### **§47-21A-24. Filing of reports.**

(a) Each licensee holding an annual, limited occasion, or platform provider, or state fair license shall file with the commissioner a financial report summarizing its online raffle operations within 30 days after the expiration date of the license. The time period covered by an annual report is the full license year or, at the election of a licensee receiving state or federal funding, the most recently ended state or federal fiscal year.

(b) The reports required by this section relating to a platform provider license shall additionally contain the name, address, and telephone number of each charitable organization to which the platform provider provided services. The report shall also list the specific online raffle occasions in which platform provider participated, including the date of each online raffle occasion, any costs and fees associated with these online raffle occasions, and any other information required by the commissioner.

(c) The reports required by this section relating to an annual license or a state fair license shall additionally contain the name, address, and social security number of any individual who received during the course of an online raffle occasion prizes the aggregate value of which exceeded \$100, and other information required by the commissioner: *Provided*, That any licensee failing to file the report when due is liable for a penalty of \$25 for each month or fraction of a month during which the failure continues, the penalty not to exceed \$100: *Provided, however*, That annual financial reports shall contain either a compilation or review of the financial report by a certified or licensed public accountant, or may be audited by a certified or licensed public accountant, if a licensee's gross receipts exceed \$50,000.

#### **§47-21A-25. Filing of copy of license; application open to public inspection.**

Whenever any license is granted pursuant to this article, the commissioner shall cause a copy of the license to be filed and recorded with the clerk of the county commission of the county in which the licensee's physical operations exist as provided in its application: *Provided*, That a platform provider license issued to an entity that has a principal place of business outside of the state shall provide a hyperlink on their website which will be directed towards a viewable version of the platform provider license. A copy of any application shall be made available for public inspection in the office of the commissioner.

**§47-21A-26. Prohibited acts by convicted persons.**

Any person convicted of any felony, or a misdemeanor for a gambling offense, or of a violation of any provision of §47-20-1 et seq. of this code, is prohibited from directly or indirectly obtaining an online raffle license, conducting an online raffle occasion, or leasing or providing to a licensee any premises where online raffle occasions may be overseen or held, within 10 years from said conviction.

**§47-21A-127. Proceeds of state fair.**

The Legislature declares that the net proceeds of any online raffle game which accrue to the West Virginia state fair are considered used for charitable or public service purposes as defined in §47-21A-2 of this code. Any proceeds allowed by the state fair board to be paid to or retained by persons who conduct or oversee online raffle occasions are considered to be expenses incurred by the state fair board.

**§47-21A-28. State fair online raffle license; rules and regulations.**

The West Virginia state fair board may apply annually to the Tax Commissioner for a state fair online raffle license to provide for the conduct of online raffle occasions. The license shall permit the state fair board to have one or more persons conduct online raffle occasions who have conducted online raffle occasions on a regular basis for a least one year prior to the date of the state fair board's application. The state fair shall pay a license fee of \$500 shall be paid to the Tax Commissioner for the state fair online raffle license. The provisions of §47-21A-111, §47-21A-112, and §47-21A-113 of the code do not apply to a state fair raffle license. A state fair online raffle license may not be issued unless the application includes a copy of any agreement entered into between the state fair board and the persons or entities who are to conduct online raffle occasions. The state fair board may adopt reasonable rules and regulations, not inconsistent with or in violation of the provisions of this article, to govern the holding of online raffle occasions.

**§47-21A-29. Additional remedies for the commissioner; administrative procedures; deposit of money penalties.**

(a) Additional remedies. Notwithstanding any provision of this article to the contrary, the commissioner may:

(1) Revoke or refuse to renew any license issued under this article for any material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article;

(2) Suspend the license of any licensee for the period of time the commissioner considers appropriate, not to be less than one week nor more than 12 months, for any material violation of the provisions of this article or legislative rule of the commissioner promulgated under this article;

(3) Place any licensee on probation for not less than six months nor more than five years: *Provided*, That if a licensee is placed on probation, as a condition of the probation, the licensee shall pay to the commissioner a probation supervision fee in an amount equal to two percent of the gross proceeds derived by the licensee from the conduct of online raffle occasions, or a probation supervision fee in an amount equal to two percent of the gross proceeds derived by the licensee from the conduct of providing a platform within the state during the period of the suspension, but, in no event, may the probation supervision fee be less than \$2,000. All probation

supervision fee revenue shall be placed in a special account and used by the commissioner, after appropriation by the Legislature, to offset the expenses and costs incurred by the Tax Division to supervise the licensee;

(4) Require any licensee to replace any officer who knew or should have known of a material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article;

(5) Require any licensee to prohibit one or more members, supporters, volunteers, or employees of the licensee involved in acts of material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article, from all future online raffle occasions held under the license, or for the period of time specified by the commissioner;

(6) Impose a civil money penalty in an amount not less than \$100 nor more than two times the annual gross proceeds derived by any licensee, for each material violation of the provisions of this article or legislative rules of the commissioner: *Provided*, That in setting any monetary penalty for a first offense, the commissioner shall take into consideration the ability of the licensee to continue to exist and operate. For each material violation which is a second or subsequent offense, the amount of the civil penalty that may be imposed may not be less than \$500 and may not exceed two times the annual gross proceeds of the licensee. The commissioner may file this rule as an emergency rule. Any licensee aggrieved by the amount of the civil penalty may surrender its license, or, after exhausting all administrative remedies, have the matter reviewed in the West Virginia Intermediate Court of Appeals; or

(7) Order any one or more, or any combination, of the penalties provided for in subdivisions (1) through (6) of this subsection: *Provided*, That no sanctions or other remedy shall be imposed under this article on a licensee which is exempt or qualified to be exempt from federal income taxation under subsection 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended, but does not have bona fide members, due to failure to operate online raffle occasions with members if the occasions are or were operated by residents of this state who have been employed by the licensee or been meaningfully associated with the licensee for one or more years before the date of the licensee's application for a license under this article, or its last application for renewal of a license under this article.

(b) *Administrative procedures.*

(1) An order issued under this section shall be served by certified mail or in the manner provided in rule 4(d) of the West Virginia rules of civil procedure for trial courts of record, as amended.

(2) A licensee may appeal an order of the commissioner issued under this section by petitioning the Office of Tax Appeals within 20 days after the licensee is served with a copy of the order.

(3) When a petition is filed timely, the provisions of §11-10A-1 *et seq.* of this code apply.

(4) The burden of proof in any administrative or court proceeding is on the licensee to show cause why the order of the commissioner under this section should be modified, in whole or in part, or set aside.

(c) Deposit of money penalties. — All fines, money penalties, and fees imposed pursuant to this section, except the probation supervision fee imposed by subdivision (3), subsection (a) of this section, shall be deposited into the General Revenue Fund of this state.

The bill (Com. Sub. for S. B. 751), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 786**, Relating to massage therapy establishments.

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

**Com. Sub. for Senate Bill 791**, Modifying membership requirements of Medical Services Fund Advisory Council.

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

**Senate Bill 813**, Allowing students to participate in non-school competitive activities.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Com. Sub. for Senate Bill 819**, Modifying requirements for public water systems or businesses having backflow preventers.

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

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

On page 2, section 4, lines 21 through 28, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision (3), to read as follows:

(3) Occupational and industrial health hazards, the sanitary conditions of streams, sources of water supply, sewerage facilities, and plumbing systems and the qualifications of personnel connected with any of those facilities, without regard to whether the supplies or systems are publicly or privately owned; and the design of all water systems, plumbing systems, sewerage systems, sewage treatment plants, excreta disposal methods, and swimming pools in this state, whether publicly or privately owned: Provided, That the secretary may not promulgate rules that require a public water supply system or business to have backflow prevention assemblies inspected more frequently than once in 10 years;

The bill (Com. Sub. for S. B. 819), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 842**, Modifying training requirements for county boards of education members.

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

**Com. Sub. for Senate Bill 848**, Creating special revenue account within Department of Health.

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

**Senate Bill 858**, Clarifying filing requirements and deadlines in property tax cases.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Senate Bill 859**, Limiting requirements for issuance of professional teaching certificate.

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

**Senate Bill 861**, Increasing support and professional development for educators.

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

**Com. Sub. for Senate Bill 865**, Changing reference to Curator of Department of Arts, Culture, and History to secretary.

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

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE  
GOVERNMENT.**

**§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

(a) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Administration:

- (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;
- (3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;
- (4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this code;



- (5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;
- (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;
- (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;
- (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;
- (9) West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;
- (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and
- (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

(b) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Commerce:

(1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

(A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of this code; and

(B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.* of this code.

(2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code. The following boards are transferred to the Office of Miners' Health, Safety, and Training for purposes of administrative support and liaison with the Office of the Governor:

(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code;

(B) Board of Miner Training, Education, and Certification provided in §22A-7-1 *et seq.* of this code; and

(C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

(3) Division of Natural Resources and Natural Resources Commission provided in §20-1-1 *et seq.* of this code;

(4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

(5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code;

(6) Workforce West Virginia provided in chapter 21A of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development;

(D) Division of Research, Information and Analysis; and

(7) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.

(c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is continued as an independent agency within the executive branch.

(d) The Water Development Authority and the Water Development Authority Board provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the executive branch.

(e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of this code is continued as a separate ~~independent~~ agency within the Department of Arts, Culture, and History, which shall provide administrative support for the authority.

(f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is continued as a ~~separate independent~~ an agency within the Executive Branch as the Department of Arts, Culture, and History. All references throughout this code to the "Division of Culture and History" ~~means~~ mean the "Department of Arts, Culture, and History".

(g) The following agencies and boards, including all of the allied, advisory, and affiliated entities, are transferred to the Department of Environmental Protection for purposes of administrative support and liaison with the Office of the Governor:

(1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

(2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

(3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of this code;

(4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

(5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;

(6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

(7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

(h) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Health ~~and Human Resources~~:

(1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

(2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

(3) Office of Emergency Medical Services and the Emergency Medical Service Advisory Council provided in §16-4C-1 *et seq.* of this code;

(4) Health Care Authority provided in §16-29B-1 *et seq.* of this code;

(5) The Developmental Disabilities Council established by Executive Order No. 6-88 and continued by Executive Order No. 15-99;

(i) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Human Resources:

~~(6)~~(1) Women's Commission provided in §29-20-1 *et seq.* of this code; and

~~(7)~~(2) Bureau for Child Support Enforcement provided in §48-1-1 *et seq.* of this code.

~~(i)~~(j) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Homeland Security:

(1) West Virginia State Police;

(2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided*, That notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule promulgated thereunder, a reference is made to the Division of Homeland Security and Emergency Management, it shall be construed to mean the Division of Emergency Management;

(3) Division of Administrative Services;

(4) Division of Corrections and Rehabilitation;

(5) Fire Commission;

(6) State Fire Marshal;

(7) Board of Probation and Parole;

(8) The West Virginia Fusion Center;

(9) Division of Protective Services; and

(10) Any other agency or entity hereinafter established within the Department of Homeland Security by an act of the Legislature.

~~(j)~~(k) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Revenue:

(1) Tax Division provided in §11-1-1 *et seq.* of this code;

(2) Racing Commission provided in §19-23-1 *et seq.* of this code;

(3) Lottery Commission and position of Lottery Director provided in §29-22-1 *et seq.* of this code;

(4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

(5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of this code and §60-2-1 *et seq.* of this code;

(6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

(7) Lending and Credit Rate Board provided in §47A-1-1 *et seq.* of this code;

(8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;

(9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;

(10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;

(11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and

(12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

~~(k)~~(l) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Transportation:

(1) Division of Highways provided in §17-2A-1 *et seq.* of this code;

(2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;

(3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;

(4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;

(5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

(6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and

(7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.

~~(j)~~(m) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code, including all of the allied, advisory, affiliated, or related entities and funds associated with it, is incorporated in and administered as a part of the Department of Veterans' Assistance.

~~(m)~~(n) Except for powers, authority, and duties that have been delegated to the secretaries of the departments by §5F-2-2 of this code, the position of administrator and the powers, authority, and duties of each administrator and agency are not affected by the enactment of this chapter.

~~(n)~~(o) Except for powers, authority, and duties that have been delegated to the secretaries of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards and the membership, terms, and qualifications of members of the boards are not affected by the enactment of this chapter. All boards that are appellate bodies or are independent decision makers may not have their appellate or independent decision-making status affected by the enactment of this chapter.

~~(e)~~(p) Any department previously transferred to and incorporated in a department by prior enactment of this section means a division of the appropriate department. Wherever reference is made to any department transferred to and incorporated in a department created in §5F-1-2 of this code, the reference means a division of the appropriate department and any reference to a division of a department so transferred and incorporated means a section of the appropriate division of the department.

~~(p)~~(q) When an agency, board, or commission is transferred under a bureau or agency other than a department headed by a secretary pursuant to this section, that transfer is solely for purposes of administrative support and liaison with the Office of the Governor, a department secretary, or a bureau. Nothing in this section extends the powers of department secretaries under §5F-2-2 of this code to any person other than a department secretary and nothing limits or abridges the statutory powers and duties of statutory commissioners or officers pursuant to this code.

~~(e)~~(r) The Department of Economic Development as established in §5B-2-1 *et seq.* of this code is continued as a separate independent agency within the Executive Branch.

~~(f)~~(s) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued as a separate independent agency within the Executive Branch.

## CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

### **§29-1-1. Division of Culture and History continued as the Department of Arts, Culture, and History; sections and commissions; purposes; definitions; effective date.**

(a) The Division of Culture and History and ~~the office of Commissioner of Culture and History~~ heretofore created are hereby continued as the Department of Arts, Culture, and History. The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the ~~Curator~~ Cabinet Secretary of Arts, Culture, and History, who shall be the chief executive officer of the department and shall be paid an annual salary as provided in §6-7-2a of this code. The curator so appointed shall have: (1) A bachelor's degree in one of the fine arts, social sciences, library science, or a related field; or (2) four years' experience in the administration of museum management, public administration, arts, history, or a related field.

(b) The department shall consist of ~~seven~~ eight sections as follows:

- (1) The arts section;
- (2) The archives and history section;
- (3) The museums section;
- (4) The historic preservation section;

- (5) The state library section;
- (6) The National Coal Heritage Area Commission; ~~and~~
- (7) The administrative section; and
- (8) The Educational Broadcasting Commission.

(c) The department shall also consist of ~~three~~ four citizens commissions as follows:

- (1) A Commission on the Arts;
- (2) A Commission on Archives and History; ~~and~~
- (3) A Library Commission; and
- (4) An Educational Broadcasting Council.

(d) The ~~curator~~ secretary shall exercise control and supervision of the department and shall be responsible for the projects, programs, and actions of each of its sections. The purpose and duty of the department is to advance, foster, and promote the creative and performing arts and crafts, including both indoor and outdoor exhibits and performances; to advance, foster, promote, identify, register, acquire, mark, and care for historical, prehistorical, archaeological, and significant architectural sites, structures, and objects in the state; to encourage the promotion, preservation, and development of significant sites, structures, and objects through the use of economic development activities such as loans, subsidies, grants, and other incentives; to coordinate all cultural, historical, and artistic activities in state government and at state-owned facilities; to acquire, preserve, and classify books, documents, records, and memorabilia of historical interest or importance; and, in general, to do all things necessary or convenient to preserve and advance the arts, humanities, culture, and history of the state. In the furtherance of these purposes and duties, the ~~curator~~ secretary shall report directly to the Governor as a ~~curator~~ secretary for both the intrinsic and extrinsic value for individuals, communities, and the economy of the arts, humanities, culture, and history in West Virginia. As such, the ~~curator~~ secretary shall represent the Department of Arts, Culture, and History as a full participating member in meetings of the secretaries of the departments created in §5F-1-2 of this code that are convened at the call of the Governor.

(e) The department ~~shall have~~ has jurisdiction and control and may set and collect fees for the use of all space in the building presently known as the West Virginia Science and Culture Center, including the deck and courtyards forming an integral part thereof; the building presently known as West Virginia Independence Hall in Wheeling, including all the grounds and appurtenances thereof; "Camp Washington Carver" in Fayette County, as provided in §29-1-14 of this code; and any other sites as may be transferred to or acquired by the department. Notwithstanding any provision of this code to the contrary, beginning on and after July 1, 2018, the department shall have responsibility for, and control of, all visitor touring and visitor tour guide activities within the Capitol Building at Charleston.

(f) For the purposes of this article, "commissioner" or "curator" means the ~~Curator~~ Cabinet Secretary of Arts, Culture, and History, and "division" or "department" means the Department of Arts, Culture and History. References throughout this code to the "Commissioner of Culture and History" mean the "~~Curator~~ Cabinet Secretary of Arts, Culture, and History", and references

throughout this code to the "Division of Culture and History" mean the "Department of Arts, Culture, and History".

~~(g) Nothing in this article or any other provision of this code may be construed to mean that the Department of Arts, Culture, and History is an executive department created pursuant to §5F-1-2 of this code, nor that the curator is the secretary of an executive department created pursuant to that section.~~

The bill (Com. Sub. for S. B. 865), as amended, was then ordered to engrossment and third reading.

**Senate Bill 872**, Relating to county fire service fees.

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

**Senate Bill 873**, Schedule for tax installment payments.

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

**Eng. Com. Sub. for House Bill 4809**, Health Care Sharing Ministries Freedom to Share Act.

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

The Senate proceeded to the tenth order of business.

**Eng. Com. Sub. for House Bill 4233**, Non-binary not permitted on birth certificates.

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

**Eng. Com. Sub. for House Bill 4874**, Relating to fatality and mortality review team.

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

**Eng. Com. Sub. for House Bill 4933**, Relating to Medicaid dental coverage.

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 Senators Taylor and Caputo.

At the request of Senator Caputo, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of Joe Martin, former member of the House of Delegates and former Secretary of the Department of Military Affairs and Public Safety.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on February 23, 2024:

**Senate Bill 801:** Senator Taylor.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolution on February 23, 2024:

**Senate Bill 347:** Senators Barrett and Queen;

**Senate Bill 503:** Senator Rucker;

**Senate Bill 717:** Senator Nelson;

**Com. Sub. for Senate Bill 769:** Senator Rucker;

And,

**Senate Joint Resolution 6:** Senators Trump and Hunt.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:01 p.m., the Senate adjourned until Monday, February 26, 2024, at 10 a.m.

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## SENATE CALENDAR

Monday, February 26, 2024  
10:00 AM

### THIRD READING

- Eng. Com. Sub. for S. B. 190 - Modifying definition of sexual contact (original similar to HB5578)
- Eng. Com. Sub. for S. B. 442 - Providing for immunity for mental health providers who are involved in mental hygiene checks
- Eng. Com. Sub. for Com. Sub. for S. B. 568 - Creating multi-tiered system for school absenteeism
- Eng. Com. Sub. for Com. Sub. for S. B. 575 - Assisted Reproduction Act
- Eng. Com. Sub. for S. B. 583 - Relating to employer liability and damages in civil actions involving commercial motor vehicles - (Com. title amend. pending)
- Eng. Com. Sub. for S. B. 725 - Clarifying conditions for pretrial release and maximum bail amount for certain defendants - (With right to amend)
- Eng. Com. Sub. for S. B. 751 - Creating online charitable raffles - (Com. title amend. pending)
- Eng. Com. Sub. for S. B. 774 - Mountain Bike Responsibility Act
- Eng. Com. Sub. for S. B. 786 - Relating to massage therapy establishments
- Eng. Com. Sub. for S. B. 791 - Modifying membership requirements of Medical Services Fund Advisory Council
- Eng. Com. Sub. for S. B. 819 - Modifying requirements for public water systems or businesses having backflow preventers
- Eng. Com. Sub. for S. B. 842 - Modifying training requirements for county boards of education members
- Eng. Com. Sub. for S. B. 848 - Creating special revenue account within Department of Health
- Eng. Com. Sub. for S. B. 851 - Establishing requirements for contingency fee agreements between political subdivisions and private attorneys
- Eng. S. B. 859 - Limiting requirements for issuance of professional teaching certificate
- Eng. S. B. 861 - Increasing support and professional development for educators
- Eng. Com. Sub. for S. B. 865 - Changing reference to Curator of Department of Arts, Culture, and History to secretary
- Eng. S. B. 872 - Relating to county fire service fees
- Eng. S. B. 873 - Schedule for tax installment payments
- Eng. Com. Sub. for H. B. 4809 - Health Care Sharing Ministries Freedom to Share Act

## **SECOND READING**

- Com. Sub. for Com. Sub. for S. B. 468 - Requiring course in public schools on human development (original similar to HB5075)
- Com. Sub. for Com. Sub. for S. B. 470 - Uniform Special Deposits Act (original similar to HB4913)
- Com. Sub. for Com. Sub. for S. B. 482 - Relating to rule-making authority of Ethics Commission (original similar to HB4957)
- Com. Sub. for S. B. 503 - Protecting belief-based student organizations from certain types of discrimination
- Com. Sub. for Com. Sub. for S. B. 679 - Regulating certain plant-based derivatives, hemp-derived cannabinoid products, and Kratom
- S. B. 686 - Prohibiting actions for damages or attorney's fees in cases involving Board of Risk and Insurance Management (original similar to HB5643)
- Com. Sub. for S. B. 717 - Prohibiting sale of tobacco products to individuals younger than 21 years of age
- Eng. S. B. 732 - Requiring cooperation between law-enforcement agencies and military authorities - (Com. amend. pending)
- Com. Sub. for S. B. 769 - Prohibiting certain medical exams on anesthetized patients - (Com. amend. and title amend. pending)
- S. B. 803 - Updating definitions for assessment of real property
- S. B. 813 - Allowing students to participate in non-school competitive activities
- S. B. 858 - Clarifying filing requirements and deadlines in property tax cases
- Eng. Com. Sub. for H. B. 4233 - Non-binary not permitted on birth certificates
- Eng. Com. Sub. for H. B. 4874 - Relating to fatality and mortality review team - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4933 - Relating to Medicaid dental coverage - (Com. amend. and title amend. pending)

## **FIRST READING**

- Eng. H. B. 5593 - Relating to the creation, composition, qualifications, and compensation of the State Board of Risk and Insurance Management