

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2020
THIRTY-FIFTH DAY

Charleston, West Virginia, Tuesday, February 11, 2020

The Senate met at 11:16 a.m.

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

Prayer was offered by Charlie Spencer, Division of Forestry Chaplain, Danville, West Virginia.

The West Virginia Division of Forestry Honor Guard proceeded in the presenting of the Colors. The Honorable Paul Hardesty, a senator from the seventh district, then led the Senate in the recitation of the Pledge of Allegiance.

Pending the reading of the Journal of Monday, February 10, 2020,

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

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

The Clerk presented the following communication from a state agency as required by the provisions of law:

Environmental Protection, Department of (Special Reclamation Fund Advisory Council) (§22-1-17)

The Senate proceeded to the third order of business.

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

Eng. House Bill 2527—A Bill to amend and reenact §29-22-12 of the Code of West Virginia, 1931, as amended, relating to forgery and other crimes concerning lottery tickets; requiring any sentencing be by determinate sentence.

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 4003—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-25, and to amend said code by adding thereto a new section, designated §33-53-3, all relating to telehealth requirements; providing rulemaking authority; requiring boards to regulate telehealth practice; defining terms; requiring insurance coverage of certain telehealth services; providing an effective date; and providing limitation of applicability.

Referred to the Committee on Health and Human Resources.

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 4061—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5, §33-53-6, §33-53-7, §33-53-8, §33-53-9, and §33-53-10, all relating to health plan benefit networks; creating the Health Benefit Plan Network Access and Adequacy Act; providing definitions; establishing the Act applies to all healthcare providers with enumerated exceptions; providing adequate network standards and criteria; providing for an accessible directory of health care providers; requiring intermediary contracts to satisfy designated requirements; providing certain filing requirements for approval; establishing certain contract requirements; providing the commissioner has authority to assure compliance with the Act; limiting the commissioner's authority to mediate or settle disputes; providing rule-making powers; and establishing penalties for violation of the Act.

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

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

Eng. House Bill 4582—A Bill recognizing and declaring certain claims against agencies of the state to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

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 4611—A Bill to amend and reenact §29-3E-5 and §29-3E-8 of the Code of West Virginia, 1931, as amended, all relating to fireworks; reducing fees for retail sales locations and requiring provision for fireworks retailers to combine and pay all applicable fees in a single payment.

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. House Bill 4618—A Bill to amend and reenact §61-7-10 of the Code of West Virginia, 1931, as amended, relating to removing from the code, language prohibiting the public display and offering for rent or sale to a passersby on a street, road or alley, any deadly weapon, machine gun, submachine gun or other fully automatic weapon, any rifle, shotgun, or ammunition for same.

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 4661—A Bill to amend and reenact §24-2-4c of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-3-7 of said code, all relating to the powers of the Public Service Commission and the regulation of natural gas utilities; permitting natural gas utilities to seek proposals for drilling new natural gas wells and proposals for increasing production from existing natural gas wells; permitting natural gas utilities to create a process for identifying the cost to procure dependable supplies of natural gas to serve certain gas utility customers when dependable, lower-priced supplies of natural gas are not readily available to serve those customers; allowing natural gas utilities to petition the commission for approval of the related costs to serve such customers; providing that the commission may approve the petition the commission finds that: (1) The process of determining the costs and expected additional natural gas supply is reasonable; (2) the expected additional supply is dependable; and (3) the costs of the additional supply are reasonable and not contrary to the public interest; providing that natural gas utilities shall recover those costs pursuant to its annual purchased gas costs adjustment filings with the commission; allowing natural gas utilities to defer reasonable and prudent actual expenses attributable to converting each customer, incurred after the test year for the utility's last rate case proceeding, which are not included in the utility's current base rates; providing that natural gas utilities shall recover reasonable and prudent deferred customer conversion expenses in future base rate cases through recovery of deferred expenses amortized over a reasonable period of time, as determined by the commission; providing that such recovery will be allowed only to the extent that the commission determines, based on evidence presented by the utility, that deferred amounts did not contribute to base rate earnings in excess of the utility's last authorized return on equity calculated since the effective date of base rates from the utility's last rate case proceeding; and adding lettering of subsections to an existing section of code.

Referred to the Committee on Energy, Industry, and Mining.

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

Eng. House Bill 4691—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-2-2b; and to amend and reenact §18A-2-3 of said code all related to employment in areas of critical need; re-codifying provisions related to employment of prospective employable professional personnel as prospective teachers and other professional personnel in a separate code section; requiring county board approval; clarifying placement in next ensuing school year; deleting prospective employable professional personnel provisions; adding intent; removing reference to job fairs; restating authorization to employ prospective teachers on condition that certification is issued prior to beginning duties; requiring at least one job posting prior to placement; clarifying that placement is into school-specific critical need position; and extending date upon which provisions related to employment of retired teachers as critical need substitutes will expire.

Referred to the Committee on Education.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 10, 2020, he had approved **Enr. Committee Substitute for Senate Bill 323**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 10th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 311), Relating to court-ordered community service.

And,

(Com. Sub. for S. B. 357), Authorizing Department of Revenue promulgate legislative rules.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 11th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 4042), Requiring agencies exempt from some or all of state purchasing requirements to adopt procedural rules.

(Com. Sub. for H. B. 4091), Allowing for expedited oil and gas well permitting upon payment of applicable expedited fees.

And,

(H. B. 4496), Removing the specific mandate of the Board of Risk and Insurance Management to purchase liability insurance for the Division of Corrections.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Trump, 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 554 (originating in the Committee on Energy, Industry, and Mining), Relating to termination, expiration, or cancellation of oil or natural gas leases.

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

Com. Sub. for Com. Sub. for Senate Bill 554 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-4-9b, relating to the termination, expiration, or cancellation of oil or natural gas leases; providing a requirement for a lessee to execute and deliver to the lessor, within a specified time and without cost, a recordable release for terminated, expired, or canceled oil or natural gas leases; providing for a procedure by which a lessor may serve notice to a lessee if a lessee fails to timely provide the release; providing requirements for the content of the notice; requiring a lessee to timely notify the lessor in writing of a dispute regarding the termination, expiration, or cancellation of the oil and natural gas lease; providing for an affidavit of termination, expiration, or cancellation with specified contents; and providing a requirement that county clerks accept and record said affidavit.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 599, Clarifying when claimant may file cause of action without screening certificate of merit.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

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

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

Your Committee on the Judiciary has had under consideration

Senate Bill 732, Authorizing fee payment and expense reimbursement for attorneys who participate on court teams established by Supreme Court of Appeals.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

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

Your Committee on the Judiciary has had under consideration

Senate Bill 733, Recognizing political party status.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4011, Reorganizing various boards and authorities for the licensing and oversight of trades, occupations, and professions.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Government Organization pending.

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

Your Committee on Natural Resources has had under consideration

Eng. House Bill 4381, Relating to lifetime hunting, fishing and trapping licenses for adopted children.

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

Respectfully submitted,

Bill Hamilton,
Chair.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees:

By Senators Maroney and Takubo:

Senate Bill 747—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated, §16-1-20, relating to requiring the Bureau for Public Health to develop a Diabetes Action Plan.

Referred to the Committee on Health and Human Resources.

By Senators Maroney and Takubo:

Senate Bill 748—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-59-1, §16-59-2, and §16-59-3, all relating to increasing awareness of palliative care services; defining terms; requiring the State Advisory Coalition on Palliative Care, in conjunction with the Bureau for Public Health, to develop education materials; and requiring the Office of Health Facilities Licensure and Certification to update and maintain database.

Referred to the Committee on Health and Human Resources.

By Senators Maroney, Stollings, and Takubo:

Senate Bill 749—A Bill to amend and reenact §61-12A-4 of the Code of West Virginia, 1931, as amended, relating to requiring the Bureau for Public Health to submit its maternal mortality data to the Centers for Disease Control and Prevention for data aggregation.

Referred to the Committee on Health and Human Resources.

By Senator Rucker:

Senate Bill 750—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-7d, relating to establishing extended learning opportunities to include alternative educational opportunities for elective course credit; requiring the state board to develop a policy for the approval of eligible programs and to promulgate a rule; and recognizing that county boards may authorize alternative educational opportunity programs and audit the same.

Referred to the Committee on Education.

By Senator Rucker:

Senate Bill 751—A Bill to amend and reenact §8-6-4a of the Code of West Virginia, 1931, as amended, relating to removing certain requirements when a municipality seeks to annex property within an urban growth boundary.

Referred to the Committee on Government Organization.

Senator Jeffries offered the following resolution:

Senate Resolution 37—Designating February 12, 2020, as West Virginia Literacy Day at the Legislature.

Whereas, The purpose of West Virginia Literacy Day is to increase reading literacy rates across all counties within the state; and

Whereas, Pocahontas High School's Youth Alive Literacy Group works to shine a light and raise awareness of the importance of reading from a young age; and

Whereas, Literacy is best instilled at an early age, by a parent or grandparent, making reading a daily habit within the home; and

Whereas, As reading is the fundamental tool to academic and life success, there can be no greater initiative than to instill a love of reading in children, as it impacts every other academic subject and career choice a student will make in his or her lifetime; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 12, 2020, as West Virginia Literacy Day at the Legislature; and, be it

Further Resolved, That the Senate extends its most sincere gratitude and appreciation to Pocahontas High School's Youth Alive Literacy Group for their dedication and commitment to raising awareness of the importance of literacy from a young age; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Pocahontas High School's Youth Alive Literacy Group.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Resolution 35, Congratulating Gary Young, WV Outstanding Tree Farmer for 2020.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Tarr regarding the adoption of Senate Resolution 35 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:36 a.m., the Senate recessed to present Senate Resolution 35.

The Senate reconvened at 11:40 a.m. and resumed business under the seventh order.

Senate Resolution 36, Recognizing 75th birthday of Smokey Bear.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Sypolt and Stollings regarding the adoption of Senate Resolution 36 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:46 a.m., the Senate recessed to present Senate Resolution 36.

The Senate reconvened at 11:50 a.m. and, at the request of Senator Jeffries, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 97, Allowing senior judge to continue receiving per diem compensation beyond annual salary of sitting judge due to delay by Governor in filling vacancy.

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

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

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 97) 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 131, Creating Tim Tebow Act.

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

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 131 pass?"

Senator Roberts requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is affiliated with a private school.

The Chair replied that any impact on Senator Roberts would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Maroney, Maynard, Pitsenbarger, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Beach, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Palumbo, Prezioso, and Romano—9.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 131) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Maroney, Maynard, Pitsenbarger, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Beach, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Palumbo, Prezioso, and Romano—9.

Absent: Ihlenfeld—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 131) takes effect July 1, 2020.

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 208, Protecting consumers from unfair pricing practices during state of emergency.

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

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

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 208) 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 517, Creating State Parks and Recreation Endowment 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, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 517) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Ihlenfeld—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 517) 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 575, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian.

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

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

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 575) 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 607, Reporting motor vehicle crashes to owners.

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

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

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 607) 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 618, Conforming WV law to federal distance requirements for locations of salvage yards.

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 Senate Bill 618 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Beach—1.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 618) 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 654, Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System.

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

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

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 654) 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 657, Allowing designation of tourism development districts.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 657 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Pitsenbarger, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—21.

The nays were: Baldwin, Beach, Facemire, Hardesty, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 657) passed.

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

Eng. Com. Sub. for Senate Bill 657—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-1-9, relating to authorizing the Department of Commerce to assist qualifying tourism development projects and tourism development expansion projects in the creation of tourism development districts by approved companies; prohibiting certain municipalities from restricting tourism development projects and tourism development expansion projects in a tourism development district and from imposing or enforcing ordinances concerning such districts and tourism development projects and tourism development expansion projects therein; limiting certain rights of a municipality’s home rule powers; establishing requirements of application for and designation of tourism development districts; providing that decision of development office regarding establishment of tourist development district is final; restricting number of such districts; providing for termination of tourism development districts; exempting districts and projects within them from certain municipal regulation and requirements; establishing that projects within tourism development districts are

required to pay various taxes and fees and comply with certain state laws, state building code, and inspection standards of development office; allowing Department of Transportation to participate in tourism development projects; providing that failure to continue the Tourism Development Act does not affect the provisions of this section and created tourism development districts; requiring rulemaking and promulgation of emergency rules; and providing severability.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Beach, Prezioso, Romano, Unger, and Woelfel—6.

Absent: Ihlenfeld—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 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. House Bill 2922, Relating to requirements to obtain a final order of discharge and dismissal for possession of opiates or opioids.

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

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

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2922) passed.

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

Eng. House Bill 2922—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-407a, relating to authorizing a court to require participation and successful completion of a drug court program or drug treatment program in order for a defendant, pleading or being found guilty of possession of a controlled substance which is or contains a controlled substance listed in §60A-2-204 of this code, other than marijuana, or a controlled substance listed in §60A-2-206, §60A-2-208, or §60A-2-210 to qualify for a final order of discharge and dismissal.

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

Eng. House Bill 3039, Relating to a court's consideration of the expression of a preference by a child in certain child custody matters.

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

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

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3039) passed.

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

Eng. House Bill 3039—A Bill to amend and reenact §44-10-4, §48-9-206, and §48-9-402 of the Code of West Virginia, 1931, as amended, all relating to a court's consideration of the right of a minor to nominate his or her guardian and to a court's consideration of the expression of a preference by a child in certain child custody matters; and giving the court discretion to consider the preferences of a child under the age of fourteen years who is sufficiently matured that he or she can intelligently express a voluntary preference.

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

Eng. House Bill 4030, Increasing limit for application for original appointment as a firefighter to 40 years of age for honorably discharged veterans.

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

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

The nays were: None.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4030) passed.

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

Eng. House Bill 4030—A Bill to amend and reenact §8-15-17 of the Code of West Virginia, 1931, as amended, relating to increasing the age limit of an honorably discharged veteran of the United States armed forces, armed service reserves, or National Guard to 40 years of age for an application for original appointment.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Ihlenfeld—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4030) 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 House Bill 4275, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Sypolt and Tarr—2.

Absent: Ihlenfeld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4275) passed.

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

Eng. Com. Sub. for House Bill 4275—A Bill to amend and reenact §64-6-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing agencies of the Department of Military Affairs and Public Safety to promulgate legislative rules; authorizing the rules as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Fire Commission to promulgate a legislative rule relating to State Fire Code; and authorizing the Fire Commission to promulgate a legislative rule relating to State Building Code.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Sypolt and Tarr—2.

Absent: Ihlenfeld—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4275) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 163, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator.

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

Senate Bill 180, Relating to Second Chance Driver's License Program.

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

Senate Bill 202, Allowing one member of PSD board to be county commissioner.

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 230, Requiring State Board of Education provide routine education in suicide prevention.

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 490, Relating to criminal offenses against agricultural facilities.

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 545, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund.

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 571, Expiring funds from State Excess Lottery Revenue Fund to various accounts.

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, Creating program to further development of renewable energy resources.

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 641, Allowing WVCHIP flexibility in rate setting.

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

Senate Bill 647, Permitting physician assistants and advanced practice registered nurses issue do-not-resuscitate orders.

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 662, Removing restrictions on fiduciary commissioners.

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

Senate Bill 664, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity.

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 674, Permitting DOH purchase hardware items and equipment from local seller.

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 2602, Including possession of known stolen property in the offense of receiving or transferring stolen property.

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

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 3. CRIMES AGAINST PROPERTY.

§61-3-18. Receiving or transferring stolen goods.

If any person buys or receives from another person, or aids in concealing, or transfers to a person other than the owner thereof, or possesses any stolen goods or other thing of value, which he or she knows or has reason to believe has been stolen, ~~he shall be deemed that person is~~ guilty of the larceny thereof, and may be prosecuted although the principal offender ~~be not~~ has not been convicted: Provided, That possession of stolen goods while acting at the request of law enforcement or in cooperation with law enforcement does not constitute a violation of this section.

The bill (Eng. Com. Sub. for H. B. 2602), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2924, Permitting the West Virginia Tourism Office to decide to contract with the Division of Highways to sell advertising space on the WV511 website.

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

Eng. Com. Sub. for House Bill 4129, Relating to adoption.

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

Eng. House Bill 4141, Requiring the Department of Administration to publish its comprehensive annual financial report by the end of December.

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

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

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

ARTICLE 2. FINANCE DIVISION.

§5A-2-33. Financial accounting and reporting section; comptroller; powers and responsibilities.

(a) The financial accounting and reporting section created under section one of this article shall be under the control and supervision of a comptroller. The provisions of this section shall apply to all component units of state government, as defined by generally accepted accounting principles.

(b) The comptroller, under the direction and supervision of the director of the Finance Division, has the power and responsibility to:

(1) Maintain financial records supporting the Comprehensive Annual Financial Report required under ~~subsection (8) of this section~~ subdivision (8) of this subsection, in accordance with generally accepted accounting principles;

- (2) Maintain the official chart of accounts of the state;
- (3) Maintain the centralized accounting system;
- (4) Maintain the statewide accounting policies and procedures;
- (5) Direct the establishment and maintenance of an adequate internal control structure by the various component units of state government;
- (6) Verify the periodic reconciliation of assets as reported by the board of Investments and budgetary fund balances as reported by the State Auditor;
- (7) Issue management financial reports by component unit and department, as well as consolidated management financial reports, as follows:
 - ~~(a)~~ (A) Monthly budgetary basis reports by revenue and expense, budget compared to actual, and encumbrances; and
 - ~~(b)~~ (B) Financial position reports, including, but not limited to, cash, investments, indebtedness, obligations and accounts payable.
- (8) Issue a comprehensive annual financial report.
 - (A) When all state agencies meet the financial reporting deadlines set by the financial accounting and reporting section, the report shall be issued on or before December 31 of the calendar year in which the reporting period ends.
 - (B) When any agency fails to meet the reporting deadline, the report shall be issued within 60 days of receiving the last agency report.
 - (C) The financial report will be prepared in accordance with generally accepted accounting principles;
- (9) Have the general purpose financial statements of the state audited annually by independent certified public accountants;
- (10) Require the state pension systems, workers' compensation commission, Public Employees Insurance Agency, Board of Risk and Insurance Management and the various other component units of the state to prepare financial statements audited by independent certified public accountants and submit the audited financial statements to the financial accounting and reporting section in the form and within the time frames established by the financial accounting and reporting section;
- (11) Maintain controls over access to the centralized accounting system and the required modifications, as well as edits, controls and tables;
- (12) Promulgate legislative rules in accordance with §29A-3-1 *et seq.* of this code to effectuate the intent and purpose of this section: *Provided*, That such rules may initially be implemented by emergency rule; and
- (13) Do all things necessary and convenient to maintain the centralized accounting system, to issue financial reports of the state and to carry out its powers and responsibilities.

The bill (Eng. H. B. 4141), as amended, was then ordered to third reading.

Eng. House Bill 4179, Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

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

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

After the enacting clause by inserting the following:

§16-4C-8a. Courtesy certification of emergency medical services personnel in surrounding states.

[Repealed.]

Following discussion,

The question being on the adoption of Senator Trump's amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 4179), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Senate Bill 232, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers.

Com. Sub. for Senate Bill 288, Relating to family planning and child spacing.

And,

Com. Sub. for Senate Bill 638, Creating new private club licenses and requirements.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Blair and Stollings.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Blair and Stollings were ordered printed in the Appendix to the Journal.

The Senate next proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills:

Senate Bill 285 (*Eliminating WV Greyhound Breeding Development Fund*): Senator Sypolt;

Com. Sub. for Senate Bill 491 (*Relating to Seed Certification Program*): Senator Pitsenbarger;

Senate Bill 504 (*Providing for timely and efficient handling of forensic evidence in sexual assault cases*): Senator Plymale;

Com. Sub. for Senate Bill 653 (*Increasing number of magistrates in Putnam County*): Senator Rucker;

Senate Bill 728 (*Exempting all property used for agricultural purposes from county property maintenance codes or ordinances*): Senator Pitsenbarger;

Senate Bill 738 (*Creating Flatwater Trail Commission*): Senator Plymale;

Senate Bill 739 (*Authorizing PSC protect consumers of distressed and failing water and wastewater utilities*): Senator Cline;

Senate Bill 743 (*Establishing Office of Regulatory and Fiscal Affairs under Joint Committee on Government and Finance*): Senator Prezioso;

Senate Bill 744 (*Removing and repealing unauthorized and obsolete rules relating to DMAPS*): Senator Prezioso;

And,

Senate Bill 746 (*Providing contracted managed care companies access to uniform maternal screening tool*): Senator Stollings.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

Com. Sub. for Senate Joint Resolution 9 (*Amendment Authorizing Legislature to Eliminate or Lower Ad Valorem Tax on Motor Vehicles and Any Other Tangible Personal Property*): Senator Rucker;

Senate Resolution 35 (*Congratulating Gary Young, WV Outstanding Tree Farmer for 2020*): Senators Prezioso, Plymale, Stollings, Jeffries, and Hamilton;

And,

Senate Resolution 36 (*Recognizing 75th birthday of Smokey Bear*): Senators Cline, Prezioso, Baldwin, Lindsay, Plymale, Stollings, Jeffries, and Rucker.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:31 p.m., the Senate adjourned until tomorrow, Wednesday, February 12, 2020, at 11 a.m.

SENATE CALENDAR

Wednesday, February 12, 2020
11:00 AM

UNFINISHED BUSINESS

S. R. 37 - Designating February 12, 2020, as WV Literacy Day **[ADOPT]**

THIRD READING

Eng. Com. Sub. for S. B. 163 - Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator (original similar to HB4555)

Eng. S. B. 180 - Relating to Second Chance Driver's License Program

Eng. Com. Sub. for S. B. 230 - Requiring State Board of Education provide routine education in suicide prevention (original similar to HB4475, HB4491, HB4525, HB4568)

Eng. S. B. 545 - Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund

Eng. Com. Sub. for S. B. 571 - Expiring funds from State Excess Lottery Revenue Fund to various accounts (original similar to HB4490)

Eng. S. B. 641 - Allowing WVCHIP flexibility in rate setting

Eng. S. B. 647 - Permitting physician assistants and advanced practice registered nurses issue do-not-resuscitate orders

Eng. Com. Sub. for S. B. 662 - Removing restrictions on fiduciary commissioners

Eng. S. B. 664 - Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity

Eng. Com. Sub. for S. B. 674 - Permitting DOH purchase hardware items and equipment from local seller

Eng. Com. Sub. for H. B. 2602 - Including possession of known stolen property in the offense of receiving or transferring stolen property - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2924 - Permitting the West Virginia Tourism Office to decide to contract with the Division of Highways to sell advertising space on the WV511 website

Eng. Com. Sub. for H. B. 4129 - Relating to adoption

Eng. H. B. 4141 - Requiring the Department of Administration to publish its comprehensive annual financial report by the end of December

Eng. H. B. 4179 - Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (original similar to SB492)

SECOND READING

S. B. 202 - Allowing one member of PSD board to be county commissioner

Com. Sub. for S. B. 232 - Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers (original similar to HB4809)

Com. Sub. for S. B. 288 - Relating to family planning and child spacing

Com. Sub. for Com. Sub. for S. B. 490 - Relating to criminal offenses against agricultural facilities

Com. Sub. for S. B. 583 - Creating program to further development of renewable energy resources (original similar to HB4562)

Com. Sub. for S. B. 638 - Creating new private club licenses and requirements

FIRST READING

Com. Sub. for Com. Sub. for S. B. 554 - Relating to termination, expiration, or cancellation of oil or natural gas leases

S. B. 733 - Recognizing political party status

Eng. H. B. 4381 - Relating to lifetime hunting, fishing and trapping licenses for adopted children

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2020

Wednesday, February 12, 2020

9:30 a.m. Workforce (Room 208W)

10 a.m. Interstate Cooperation (Room 451M)