

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2022
SEVENTH DAY

Charleston, West Virginia, Tuesday, January 18, 2022

The Senate met at 11:01 a.m.

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

Prayer was offered by the Honorable Robert D. Beach, a senator from the thirteenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert H. Plymale, a senator from the fifth district.

Pending the reading of the Journal of Monday, January 17, 2022,

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

The Senate proceeded to the fourth order of business.

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 253, Relating to voting precincts and redistricting.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

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 Hamilton, Beach, Boley, Clements, Grady, Jeffries, Karnes, Lindsay, Nelson, Roberts, Stollings, Stover, Trump, Weld, and Woelfel:

Senate Bill 413—A Bill to amend and reenact §61-2-9a of the Code of West Virginia, 1931, as amended, relating to clarifying the criminal offense of stalking in West Virginia; and ensuring that this definition is clearly defined to include stalking as a direct form of harassment anticipated by the Code.

Referred to the Committee on the Judiciary.

By Senator Sypolt:

Senate Bill 414—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-8-5a; and to amend and reenact §5A-8-7 of said code, all relating to creating a special revenue account for the statewide records management program; and authorizing the State Records Administrator to collect fees for services provided.

Referred to the Committee on Finance.

By Senator Tarr:

Senate Bill 415—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-20b, relating to severance taxes; capping severance tax collections in general revenue at a specified percentage and dedicating any excess above the specified percentage to a special revenue account; creating a special revenue account; setting out the purpose of the account and use of funds therein; and providing for administration of the account.

Referred to the Committee on Finance.

By Senator Grady:

Senate Bill 416—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §35-1A-1, §35-1A-2, and §35-1A-3, all relating to forbidding excessive government limitations on exercise on religion; providing definitions; forbidding government to treat religious conduct more restrictively than any conduct of reasonably comparable risk; forbidding government to treat religious conduct more restrictively than comparable conduct because of alleged economic need or benefit; ensuring that, in all cases where state action is alleged to substantially burden the exercise of religion, that a compelling interest test is mandated, and strict scrutiny is applied; providing remedies; and addressing applicability, construction, and severability.

Referred to the Committee on the Judiciary.

By Senators Sypolt, Brown, Hamilton, Martin, Maynard, Stollings, and Stover:

Senate Bill 417—A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended, relating to authorized expenditures of revenues from certain state funds for fire departments; clarifying and expanding categories of allowable expenditures; permitting state grant funds to be deposited into a state account and be transferred from the account for

unrestricted use; and setting forth a 60-day time frame for fire departments receiving grant funds to transfer unrestricted funds from a restricted account.

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

By Senator Weld:

Senate Bill 418—A Bill to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-46-18 of said code, all relating to removing the Public Employees Insurance Agency's exemption from the provisions of chapters 5 and 33 of the Code of West Virginia.

Referred to the Committee on Banking and Insurance.

By Senator Weld:

Senate Bill 419—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-29, relating to the establishment of a pilot project in Cabell, Ohio, and Wood Counties by the Department of Health and Human Resources; evaluating the impact that post-discharge planning and the provision of wraparound services has on the outcomes of substance use disorder in three years post-substance use disorder residential treatment; setting forth service area for pilot project; setting terms of performance-based contract; and requiring reporting.

Referred to the Committee on Health and Human Resources.

By Senators Sypolt, Brown, Hamilton, Martin, Maynard, Stollings, and Stover:

Senate Bill 420—A Bill to amend and reenact §29-3E-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-3-14d and §33-3-33 of said code, all relating generally to the distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments; defining terms; providing the method of allocation and distribution for proceeds of the fireworks safety fee deposited in the Fire Protection Fund; eliminating obsolete language; requiring the State Fire Marshal to provide certain information to the State Treasurer; and clarifying the requirements for distribution of funds in the Fire Protection Fund.

Referred to the Committee on Government Organization.

By Senator Trump:

Senate Bill 421—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5J-1, §21-5J-2, §21-5J-3, §21-5J-4, §21-5J-5, §21-5J-6, §21-5J-7, §21-5J-8, §21-5J-9, and §21-5J-10, all relating to creating a paid parental leave pilot program; providing findings and purpose; definitions; paid parental leave and requirements for claiming benefits; requiring employer to continue group health insurance coverage for employee; employment benefits and seniority position upon return from leave; benefits not to accrue during period of leave; employers required to respond to survey to Department of Labor; requiring department to report to Joint Committee on Government Organization; authorizing emergency rulemaking authority; and providing December 31, 2026, sunset.

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

By Senator Rucker:

Senate Bill 422—A Bill to amend and reenact §15-2B-2, §15-2B-3, §15-2B-5, §15-2B-6, §15-2B-9, and §15-2B-11 of the Code of West Virginia, 1931, as amended, all relating to DNA that is maintained for law-enforcement purposes in West Virginia; providing updates for the policy of

maintaining DNA; updating definitions; adding language to further define and include qualified arrestees; updating where DNA may be stored; promulgating rules; and further defining expungement.

Referred to the Committee on the Judiciary.

By Senators Sypolt and Clements:

Senate Bill 423—A Bill to amend and reenact §17B-2-1 and §17B-2-8 of the Code of West Virginia, 1931, as amended, all relating to exempting persons with valid religious objections from having their photographs taken and placed on government licenses or other identification cards; and requiring rules to implement this exemption.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

By Senators Sypolt, Baldwin, Karnes, Phillips, Smith, and Woodrum:

Senate Bill 424—A Bill to repeal §19-1-10 and §19-15-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13DD-3 of said code; to amend and reenact §19-1-4a and §19-1-11 of said code; to amend said code by adding thereto two new sections, designated §19-1-13 and §19-1-14; to amend and reenact §19-2C-1, §19-2C-6a, and §19-2C-10 of said code; to amend and reenact §19-9-7a of said code; to amend and reenact §19-12E-4 and §19-12E-5 of said code; to amend said code by adding thereto a new article, designated §19-14A-1, §19-14A-2, §19-14A-3, §19-14A-4, §19-14A-5, §19-14A-6, §19-14A-7, §19-14A-8, §19-14A-9, §19-14A-10, §19-14A-11, §19-14A-12, §19-14A-13, §19-14A-14, and §19-14A-15 of said code; to amend and reenact §19-15A-4 of said code; to amend and reenact §19-16-6 of said code; to amend and reenact §19-16A-21 of said code; to amend and reenact §19-20C-3 of said code; and to amend and reenact §19-36-2 and §19-36-5 of said code, all relating generally to the 2022 Farm Bill; raising the West Virginia Farm-to-Food bank tax credit from \$2,500 to \$5,000; allowing for retroactive application of the tax credit; allowing the Commissioner of Agriculture to accept funds from various federal agencies; repealing requirement for Social Security numbers to be included on applications; removing reporting requirement to Joint Committee; requiring commissioner to report to the Legislature; authorizing commissioner to add interest to debts owed the department; authorizing department to file liens against persons who owe debts; modifying definitions; revising requirements for membership on the board of review; providing compensation for board members; clarifying advertising requirements; changing the National Animal Identification System to the Animal Disease Traceability Program; requiring license from state to produce industrial hemp; allowing commissioner to recognize hemp license issued by the USDA; creating the West Virginia Animal Remedy law; defining terms; establishing powers and duties of commissioner; providing exemptions; requiring registration of animal remedy products; providing commissioner authority to refuse, suspend, or revoke the registration of animal remedies; providing the right to hearing or appeal of decisions to suspend, refuse, or revoke applications; establishing labeling requirements; establishing when an animal remedy is adulterated; establishing when an item is misbranded; allowing commissioner to issue and enforce embargo orders, confiscate product, condemn, and seek injunction against violators; requiring commissioner keep trade secrets confidential; establishing prohibited acts; establishing criminal and civil penalties for violations; providing penalty for deviation in product; repealing publication requirement for West Virginia fertilizer law; removing requirement that commissioner published a report on the West Virginia seed law; allowing commissioner to deny, suspend, or modify license if applicant has violated, convicted, or assessed penalty under the federal insecticide, fungicide, and rodenticide act; removing outdated reporting requirement provision; defining agritourism; and establishing that agritourism does not affect the zoning law.

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

By Senator Lindsay:

Senate Bill 425—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-4-22; and to amend and reenact §49-2-906 of said code, all relating to requiring that free feminine hygiene products be provided to female prisoners in state correctional facilities and female juveniles in juvenile detention; specifying the time frame in which they must be provided; and defining a term.

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

Senators Weld and Trump offered the following resolution:

Senate Resolution 9—Designating January 19, 2022, as West Virginia Tourism Day at the Legislature.

Whereas, West Virginia's scenic beauty, four seasons, and unmatched outdoor recreation set the stage for a first-class tourism product that is well-positioned for long-term growth and development; and

Whereas, The tourism industry in West Virginia has celebrated tremendous gains over the past three years with the launch of the new Almost Heaven campaign, including 14.7 percent growth in traveler spending; and

Whereas, Tourism represents a significant economic impact for both state and local economies, including \$4.7 billion in traveler spending and \$791 million in state and local tax revenue; and

Whereas, The tourism industry supports more than 47,600 jobs annually in West Virginia; and

Whereas, Tourism's overall impact is supported by thousands of tourism-related businesses that host visitors each year, creating first-class experiences for travelers and helping local economies flourish; and

Whereas, The West Virginia Department of Tourism has significantly increased its marketing efforts both in-state and out-of-state; and

Whereas, Public relations efforts by the Department of Tourism have positioned West Virginia as a "must-visit vacation" destination by global publications like TIME magazine, Conde Naste, Lonely Planet, USA Today, Frommers, and more; and

Whereas, The Department of Tourism's cooperative advertising program has led to nearly \$10 million in public-private investment, supporting tourism advertising for more than 70 tourism businesses statewide; and

Whereas, These collective efforts of the Department of Tourism and industry partners across the state help to showcase the Mountain State as a world-class travel and tourism destination; and

Whereas, Tourism is a bright spot in West Virginia's economy and offers tremendous potential for future growth; therefore, be it

Resolved by the Senate:

That the West Virginia Senate hereby designates January 19, 2022, as West Virginia Tourism Day at the Legislature; and be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Department of Tourism.

Which, under the rules, lies over one day.

At the request of Senator Takubo, and by unanimous consent, Senators Tarr, Weld, Woodrum, and Takubo offered the following resolution from the floor:

Senate Resolution 10—Adopting a special rule of order relating to the COVID-19 pandemic for the second regular session of the Eighty-Fifth Legislature.

Whereas, Pursuant to the provisions of Article VI, Section 18 of the Constitution of the State of West Virginia, the Eighty-Fifth Legislature organized on the thirteenth day of January, 2021; and

Whereas, COVID-19, the disease caused by the SARS-CoV2 virus, threatens the ability of members to fulfill their constitutional duties; and

Whereas, The Constitution of the State of West Virginia empowers each house of the Legislature to determine the rules of its proceedings; and

Whereas, Due to the COVID-19 pandemic, a special rule of order is necessary to allow for the safe and continual operation of Senate floor sessions and committee meetings during the legislative session; therefore, be it

Resolved by the Senate:

That a special rule of order be adopted for the second regular session of the Eighty-Fifth Legislature; and, be it

Further Resolved, That members who have been diagnosed with COVID-19, notified of potential exposure to someone diagnosed with COVID-19, or who have been determined by a physician to be at a higher risk for developing serious complications from COVID-19 may designate the Majority Leader or the Minority Leader to be their proxy and to vote on their behalf during Senate floor sessions: *Provided,* That the presiding officer may, if needed, designate additional members from both the majority and minority to serve as proxies. A member may act as proxy for more than one absent member. Any member seeking to designate a proxy shall make a written or electronic request to the presiding officer, or appropriate designee, and provide documentation of his or her diagnosis, notification of potential exposure, or determination of being at a higher risk no later than one (1) hour prior to the commencement of the floor session. Each absent member, along with their designated proxy, shall be recorded in the Journal. Personal health information related to a proxy voting request or designation is exempt from public disclosure; and, be it

Further Resolved, That prior to the start of the third order of business, the presiding officer shall announce all members who are absent and have been approved to cast votes by proxy. During any division of the body or when the yeas and nays are called for, and after the votes of the members present have been counted or recorded, the presiding officer shall recognize the Majority and Minority Leaders or any other designated proxy, who shall announce the votes of each absent member for which they are authorized to vote, and the result of the vote shall be recorded in the Journal; and, be it

Further Resolved, That the provisions of Rule 43 of the Rules of the Senate shall apply to proxy voting during Senate floor sessions; and, be it

Further Resolved, That a member who has designated a member to act as proxy during a Senate floor session shall be counted as present for purposes of a quorum; and, be it

Further Resolved, That members who have been diagnosed with COVID-19, notified of potential exposure to someone diagnosed with COVID-19, or determined by a physician to be at a higher risk for developing serious complications from COVID-19 be allowed to participate remotely in committee meetings and hearings as though they were physically present, that such members be counted as present in determining a quorum, and that such members may vote on every question subject to Senate Rule 43. The Chair shall provide for simultaneous video and/or audio participation among all members; and, be it

Further Resolved, That the presiding officer may modify, alter, expand, suspend, or terminate this special rule of order as it relates to participation, including but not limited to proxy voting, in Senate floor sessions and committee meetings as the presiding officer determines, in his discretion, is appropriate; and, be it

Further Resolved, That this special rule of order shall only be in effect for the duration of the second regular session of the Eighty-Fifth Legislature.

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

The Senate proceeded to the seventh order of business.

Senate Resolution 7, Designating January 18, 2022, as Hunger Free WV Day.

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

At the request of Senator Lindsay, 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 Lindsay regarding the adoption of Senate Resolution 7 were ordered printed in the Appendix to the Journal.

Senate Resolution 8, Uplifting faith and freedom in America.

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

At the request of Senator Maynard, 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 Maynard regarding the adoption of Senate Resolution 8 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

Senate Bill 244, Relating to appointment of judges to Intermediate Court of Appeals.

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.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Weld and Baldwin.

Thereafter, at the request of Senator Lindsay, and by unanimous consent, the remarks by Senators Weld and Baldwin were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Takubo, unanimous consent being granted, leaves of absence for the day were granted Senators Romano, Rucker, Trump, and Azinger.

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 January 17, 2022:

Senate Bill 217: Senator Roberts.

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 resolutions on January 17, 2022:

Senate Bill 4: Senator Woodrum;

Senate Bill 14: Senator Roberts;

Senate Bill 26: Senator Woodrum;

Senate Bill 113: Senator Woodrum;

Senate Bill 131: Senator Woodrum;

Senate Bill 132: Senator Woodrum;

Senate Bill 142: Senator Grady;

Senate Bill 219: Senator Grady;

Senate Bill 229: Senator Grady;

Senate Bill 248: Senator Hamilton;

Senate Bill 253: Senator Hamilton;

Senate Bill 261: Senators Jeffries and Grady;

Senate Bill 267: Senator Grady;

Senate Bill 270: Senator Jeffries;

Senate Joint Resolution 1: Senator Roberts;

Senate Joint Resolution 3: Senator Jeffries;

Senate Joint Resolution 4: Senator Jeffries;

Senate Joint Resolution 8: Senator Jeffries;

Senate Concurrent Resolution 5: Senator Jeffries;

Senate Resolution 4: Senator Jeffries;

Senate Resolution 7: Senators Hamilton, Caputo, Baldwin, Stollings, and Jeffries

And,

Senate Resolution 8: Senators Hamilton, Baldwin, and Roberts.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:18 a.m., the Senate adjourned until tomorrow, Wednesday, January 19, 2022, at 11 a.m.

SENATE CALENDAR

**Wednesday, January 19, 2022
11:00 AM**

UNFINISHED BUSINESS

S. R. 9 - Designating January 19, 2022, as WV Tourism Day

SECOND READING

S. B. 244 - Relating to appointment of judges to Intermediate Court of Appeals

FIRST READING

S. B. 253 - Relating to voting precincts and redistricting - (Com. title amend. pending)