

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2022
TWENTIETH DAY

Charleston, West Virginia, Monday, January 31, 2022

The Senate met at 11:02 a.m.

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

Prayer was offered by Rabbi Victor H. Urecki, B'nai Jacob Synagogue, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Friday, January 28, 2022,

At the request of Senator Swope, 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.

Senator Blair (Mr. President) announced that, under the provisions of Senate Resolution 10 (*Adopting special rule of order relating to COVID-19 pandemic*) adopted January 18, 2022, the following senator had been approved to vote by proxy:

Senator Rucker, and that Senator Takubo had been designated to vote on her behalf.

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 2562—A Bill to amend and reenact §22-15A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section designated §22-15A-4a; all relating to litter control; providing for relocating civil and criminal penalties; providing for mirrored fines between water-based litter and land-based litter; providing for ranges of fines; providing for a specific penalty for litter relating to commercial waste that is improperly disposed of in this state; providing for verification of any court imposed community service sentence by the Department of Environmental Protection; and providing for other technical changes.

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 4024—A Bill to amend §30-27-8a and §30-27-8b of the Code of West Virginia, 1931, as amended, all relating to creating a cosmetology apprenticeship program that allows companies to train an apprentice, in whole or in part, for practical real-world experience; and providing that such apprenticeships shall count towards certification as if the apprentice had completed beauty school and satisfied other necessary requirements.

Referred to the Committee on Government Organization.

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 4288—A Bill to amend and reenact §30-36-10 of the Code of West Virginia, 1931, as amended, relating to expanding the practice of auricular acudetox to professions approved by the board; and making other technical modifications.

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

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 4291—A Bill to amend and reenact §18B-17-2 and §18B-17-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing legislative rules regarding higher education; authorizing legislative rules for the Higher Education Policy Commission regarding the Research Trust Fund Program and Annual Reauthorization of Degree-Granting Institutions; and authorizing legislative rules for the Council for Community and Technical College Education regarding Business, Occupational, and Trade Schools, Annual Reauthorization of Degree-Granting Institutions, and West Virginia Invests Grant Program.

Referred to the Committee on Education.

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 4301—A Bill to amend and reenact section 2, chapter twenty-six, Acts of the Legislature, regular session, 1924 (municipal charters), as last amended by chapter one hundred, Acts of the Legislature, regular session 2003, relating to reforming membership requirements of the Greater Huntington Park and Recreation District.

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 4308—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §14-2A-11a; to amend and reenact §14-

2A-14 of said code; and to amend and reenact §49-5-101 of said code, all relating to facilitating investigation and award of benefits under the West Virginia Crime Victims' Compensation Fund when a child is the subject of a civil abuse and neglect petition or injurious conduct is alleged to have been committed by or against a child; expanding the class of persons who may apply on behalf of a child; specifying that official records relating to a child or juvenile may be disclosed for evaluation of a Crime Victims' Compensation Fund application, and providing for confidentiality of records and proceedings.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 86, Creating criminal offense of sexual extortion.

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

Com. Sub. for Senate Bill 86 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-2-13 of the Code of West Virginia 1931, as amended, relating to the offenses of extortion and attempted extortion; including threats to publish images of a person's intimate body parts as a means of committing extortion or attempted extortion; defining the phrase "anything of value, or other consideration" to include certain defined sexual acts and defining "images of intimate body parts;" and setting forth criminal penalties.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 86), under the original double committee reference, was then referred to the Committee on Finance.

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 4067, To make certain agency reports electronic or eliminating certain agency reports altogether.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
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 Swope and Sypolt:

Senate Bill 506—A Bill to amend and reenact §11-13S-4 and §11-13Y-5 of the Code of West Virginia, 1931, as amended, all relating to authorizing application of the manufacturing investment tax credit and the manufacturing property tax adjustment credit against personal income tax; defining terms; deleting superannuated language; specifying application of tax credit; specifying effective date; and making stylistic revisions.

Referred to the Committee on Energy, Industry, and Mining; and then to the Committee on Finance.

By Senators Swope and Sypolt:

Senate Bill 507—A Bill to amend and reenact §11-15-9n of the Code of West Virginia, 1931, as amended, all relating to the consumers sales and service tax and use tax exemption for qualified purchases of computers and computer software, primary material handling equipment, racking and racking systems, and components, building materials and certain tangible personal property to be incorporated into a qualified, new or expanded warehouse or distribution facility; changing threshold jobs creation number from 300 to 50; and making stylistic changes.

Referred to the Committee on Finance.

By Senators Hamilton, Stover, Martin, and Sypolt:

Senate Bill 508—A Bill to amend and reenact §20-2-60 of the Code of West Virginia, 1931, as amended, relating to required attire for deer hunters hunting with a muzzleloader; creating misdemeanor offense for violation; and penalty.

Referred to the Committee on Natural Resources.

By Senator Rucker:

Senate Bill 509—A Bill to amend and reenact §18A-4-10 of the Code of West Virginia, 1931, as amended, relating to providing that county board of education employee personal leave be accrued as earned throughout the employment term at the end of each pay period or on the last workday for separating employees; and removing unnecessary language.

Referred to the Committee on Education.

By Senator Jeffries:

Senate Bill 510—A Bill to amend and reenact §31-15A-10 of the Code of West Virginia, 1931, as amended, by increasing the cap on annual spending that may be made on the pre-application process to project sponsors.

Referred to the Committee on Finance.

By Senator Azinger:

Senate Bill 511—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-4C-12; to amend said code by adding thereto a new section, designated §33-15-23; to amend said code by adding thereto a new section, designated §33-16-18; and to amend said code by adding thereto a new section, designated §33-25-23, all relating to addiction treatment prescription drugs; and prohibiting insurers, including a Medicaid managed care organization from denying prescription drugs for the mitigation of opioid withdrawal symptoms.

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

By Senators Phillips, Grady, Roberts, Stollings, Sypolt, and Woelfel:

Senate Bill 512—A Bill to amend and reenact §5-16-5a of the Code of West Virginia, 1931, as amended; all relating to restoring major health care benefits to certain public employees who retired and then returned to employment.

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

By Senators Phillips, Grady, Karnes, Stollings, Sypolt, Woelfel, and Woodrum:

Senate Bill 513—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-11-11a; and to amend and reenact §33-3-33 of said code, all relating to fire department recruitment and retention; creating Fire Service Recruitment and Retention Fund; establishing that the purpose of the fund is to provide grants for recruitment and retention purposes; requiring the State Fire Commission to create a grant program; establishing considerations for awarding grants; providing for rulemaking; requiring State Fire Commission verify eligibility volunteer fire departments with Legislative Auditor; raising policy surcharge to one percent; and allocating disbursements to various funds.

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

By Senator Smith:

Senate Bill 514—A Bill to amend and reenact §55-7-22 of the Code of West Virginia, 1931, as amended, relating to use of force, including deadly force, in defense of self, real, and personal property; providing immunity from civil and/or criminal prosecution against persons lawfully using force in defensive actions; when there is no duty to retreat; and providing for the receipt of court costs, fees, and expenses for persons acting to protect self, real, and personal property, another person, or in other defined situations.

Referred to the Committee on the Judiciary.

Senators Smith and Sypolt offered the following resolution:

Senate Concurrent Resolution 26—Requesting the Division of Highways name bridge number 39-68/8-000.01 (39A234), locally known as King's Trees Bridge, carrying CR 68/8 over Interstate 68 in Preston County, the "U.S. Army TEC5 William 'Bill' Thurman King Memorial Bridge".

Whereas, William "Bill" Thurman King was born on June 24, 1925, in Bruceton Mills, Preston County, West Virginia; and

Whereas, In the 1940s, William 'Bill' Thurman King was a Technician Fifth Grade, Battery A of the 364th Field Artillery in the United States Army, he was honorably discharged in 1946; and

Whereas, William 'Bill' Thurman King was honored in his military service with the European-African-Middle Eastern Theater Ribbon, the Good Conduct Medal, the World War II Victory Ribbon, and the Army Occupation Medal (Germany); and

Whereas, From the late 1940s until the 1980s, William 'Bill' Thurman King was a bus operator for the Preston County Board of Education; and

Whereas, It is fitting that an enduring memorial be established to commemorate TEC5 William "Bill" Thurman King and his contributions to his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 39-68/8-000.01 (39A234), locally known as King's Trees Bridge, carrying County Route 68/8 over Interstate 68 in Preston County, the "U.S. Army TEC5 William 'Bill' Thurman King Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army TEC5 William 'Bill' Thurman King Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 25, Firefighter Marvin Layton Hughes Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 151, Creating license plate recognizing linemen.

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 Senate Bill 151 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker (by proxy), Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 151) 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 192, Establishing Civil Air Patrol license plate.

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, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker (by proxy), Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 192) 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 261, Requiring video cameras in certain special education classrooms.

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 Senate Bill 261 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker (by proxy), Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 261) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips,

Plymale, Roberts, Romano, Rucker (by proxy), Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 261) 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 279, Authorizing DEP to promulgate legislative rules.

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 Senate Bill 279 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Caputo, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker (by proxy), Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—26.

The nays were: Baldwin, Beach, Brown, Geffert, Jeffries, Lindsay, Romano, and Woelfel—8.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 279) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Boley, Caputo, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker (by proxy), Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—26.

The nays were: Baldwin, Beach, Brown, Geffert, Jeffries, Lindsay, Romano, and Woelfel—8.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 279) 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 441, Providing confidentiality of video and other records of correctional juvenile facilities.

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 Senate Bill 441 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker (by proxy), Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 441) passed with its title.

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 5, Creating WV Unmanned Aircraft Systems Advisory Council.

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

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

On page one, section eighteen, line nine, by striking out the words "representing the military" and inserting in lieu thereof the words "from the Adjutant General's Department".

On motion of Senator Stollings, the following amendment to the bill (Com. Sub. for S. B. 5) was next reported by the Clerk:

On page one, section eighteen, line eight, after the word "industry" by inserting the words "with at least five years of experience operating an unmanned aircraft".

Following discussion,

The question on the adoption of the amendment offered by Senator Stollings to the bill, the same was put and prevailed.

The bill (Com. Sub. for S. B. 5), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 439, Adopting Revised Uniform Athlete Agents Act of 2015.

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

Senate Bill 440, Establishing Uniform Commercial Real Estate Receivership Act.

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

Senate Bill 450, Updating definitions of WV Personal Income Tax Act.

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

Senate Bill 451, Updating definitions of WV Corporation Net Income Tax 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 452, Permitting civil remedies for unauthorized disclosure of intimate images.

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 453, Establishing uniform requirements for restrictive employment agreements.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that 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 138, Relating to Board of Medicine composition.

Com. Sub. for Senate Bill 227, Requiring county boards of education and county superintendents to comply with instructions of State Board of Education.

Com. Sub. for Senate Bill 267, Relating to transportation of students in county board owned and insured vehicles.

And,

Senate Bill 492, Relating to electronic collection of tolls.

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

The Senate then proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills on January 28, 2022:

Senate Bill 242: Senator Baldwin;

And,

Senate Bill 485: Senator Lindsay.

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 28, 2022:

Senate Bill 3: Senator Romano;

Senate Bill 29: Senator Takubo;

Senate Bill 86: Senator Romano;

Senate Bill 257: Senator Baldwin;

Senate Bill 463: Senator Takubo;

Senate Bill 470: Senator Woodrum;

Senate Bill 477: Senator Plymale;

Senate Bill 488: Senator Takubo;

Senate Bill 502: Senators Lindsay and Jeffries;

Senate Bill 503: Senators Takubo and Roberts;

Senate Joint Resolution 2: Senator Plymale;

Senate Joint Resolution 3: Senator Plymale;

Senate Joint Resolution 4: Senators Takubo, Roberts, and Plymale;

Senate Joint Resolution 6: Senator Roberts;

Senate Joint Resolution 7: Senator Plymale;

Senate Joint Resolution 8: Senator Plymale;

Senate Concurrent Resolution 17: Senator Plymale;

Senate Concurrent Resolution 25: Senators Lindsay and Jeffries;

And,

Senate Resolution 4: Senator Plymale.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:47 a.m., the Senate adjourned until tomorrow, Tuesday, February 1, 2022, at 11 a.m.

SENATE CALENDAR

**Tuesday, February 1, 2022
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 26 - US Army TEC5 William "Bill" Thurman King Memorial Bridge

THIRD READING

Eng. Com. Sub. for S. B. 5 - Creating WV Unmanned Aircraft Systems Advisory Council

Eng. Com. Sub. for S. B. 439 - Adopting Revised Uniform Athlete Agents Act of 2015

Eng. S. B. 440 - Establishing Uniform Commercial Real Estate Receivership Act

Eng. S. B. 450 - Updating definitions of WV Personal Income Tax Act (original similar to HB4323)

Eng. S. B. 451 - Updating definitions of WV Corporation Net Income Tax Act (original similar to HB4322)

Eng. Com. Sub. for S. B. 452 - Permitting civil remedies for unauthorized disclosure of intimate images

Eng. Com. Sub. for S. B. 453 - Establishing uniform requirements for restrictive employment agreements - (With right to amend)

SECOND READING

Com. Sub. for S. B. 138 - Relating to Board of Medicine composition

Com. Sub. for S. B. 227 - Requiring county boards of education and county superintendents to comply with instructions of State Board of Education

Com. Sub. for S. B. 267 - Relating to transportation of students in county board owned and insured vehicles

S. B. 492 - Relating to electronic collection of tolls

FIRST READING

Eng. Com. Sub. for H. B. 4067 - To make certain agency reports electronic or eliminating certain agency reports altogether - (Com. amend. and title amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2022

Tuesday, February 1, 2022

10 a.m.

Transportation & Infrastructure

(Room 451M)