

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE  
REGULAR SESSION, 2021  
FORTY-FOURTH DAY

---

Charleston, West Virginia, Thursday, March 25, 2021

The Senate met at 11:03 a.m.

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

Prayer was offered by the Honorable Bill Hamilton, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Amy N. Grady, a senator from the fourth district.

Pending the reading of the Journal of Wednesday, March 24, 2021,

At the request of Senator Woelfel, 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:

Development Office (Tax Increment Financing) (§7-11B-15)

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 517**, Relating to sunset provisions of legislative rules.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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

**ARTICLE 3. RULEMAKING.****§29A-3-19. Sunset provision in rules.**

(a) Any new legislative rule promulgated pursuant to this article after April 1, 2016, shall include a sunset provision terminating the rule on August 1 of the fifth year following its promulgation; ~~after five years~~. *Provided*, That the rule may be renewed ~~for additional terms of five years or less~~ by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this subsection shall not apply to rules promulgated by the Department of Environmental Protection or emergency rules promulgated pursuant to §29A-3-15 of this code.

(b) Any legislative rule existing as of April 1, 2016, that is thereafter ~~modified~~ amended pursuant to this article, shall include a sunset provision terminating the rule on August 1 of the applicable year as part of the ~~modification~~ amendment setting forth a termination date for the rule: *Provided*, That the rule may be renewed ~~for additional terms of years~~ by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the legislative rule is promulgated, the enabling statute's provision controls: *Provided further*, That this subsection shall not apply to legislative rules promulgated by the Department of Environmental Protection or emergency rules promulgated pursuant to §29A-3-15 of this code.

(c) The existence of a sunset provision terminating a legislative rule shall not preclude the repeal of the legislative rule by the Legislature prior to its termination.

(d) As part of its rule review under this article, the Legislative Rule-Making Review Committee may establish a procedure for timely review of a legislative rule prior to its termination for those agencies that have affirmatively sought renewal prior to expiration. The procedure may include a requirement that the agency show cause as to why the terminating legislative rule is required and necessary to be continued for another term of years.

(e) The Secretary of State shall provide notice to the promulgating agency and the Legislative Rule-Making Review Committee at least 18 months prior to every legislative rule's termination date. The promulgating agency has 60 days from receipt of the notice to file the legislative rule with the Secretary of State and the Legislative Rule-Making Review Committee affirmatively seeking renewal of the legislative rule: *Provided*, That, if the legislative rule that is scheduled to sunset ~~may not be~~ is not being amended or changed, except for a new sunset date, and the rule is not subject to the public comment period requirements contained in §29A-3-5 of this code. The Legislative Rule-Making Review Committee, as part of its rule review under this article, may begin reviewing a legislative rule upon its filing.

(f) Any agency that has promulgated a legislative rule with a sunset date prior to May 1 of the applicable year, may file a technical amendment with the Secretary of State for the purposes of establishing a sunset date of August 1 of the applicable year.

(g) The Secretary of State shall file a notice of sunset in the State Register within 30 days following the expiration of a legislative rule.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 517**—A Bill to amend and reenact §29A-3-19 of the Code of West Virginia, 1931, as amended, relating to sunset provisions of legislative rules; requiring new legislative rules to contain an sunset provision terminating the legislative rule on August 1 of the fifth year following promulgation; removing the five-year sunset requirement for new legislative rules after initial five-year sunset provision; requiring all legislative rules to sunset on August 1 of the applicable year; authorizing an agency to file a technical amendment with the Secretary of State to correct sunset dates in accordance with this requirement; and requiring the Secretary of State to file a notice of sunset in the State Register upon the expiration of a legislative rule.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 517, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority 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) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—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.

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 2028**—A Bill to amend and reenact §60A-9-2 of the Code of West Virginia, 1931, as amended, relating to exempting a veterinarian from the requirements of controlled substance monitoring.

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. House Bill 2029**—A Bill to amend and reenact §18A-3-1 and §18A-3-2a of the Code of West Virginia, 1931, as amended, related to teacher preparation clinical experience programs; changing name of teacher in residence program to clinical teacher of record program; providing for resident teacher clinical experience programs and leader induction programs under general direction and control of state board; and changing Teacher in Residence Permit to Clinical Teacher of Record Permit.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendment to the Senate amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for House Bill 2263**, Update the regulation of pharmacy benefit managers.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates J. Pack, D. Jeffries, and Griffith.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Blair (Mr. President) appointed the following conferees on the part of the Senate:

Senators Maroney, Takubo, and Stollings.

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

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. Com. Sub. for House Bill 2427**—A Bill to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to behavioral health centers licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to hospital licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule

relating to nursing home licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food establishments; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to lead abatement licensing; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to client rights at state-operated mental health facilities; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to delegation of medication administration and health maintenance tasks to approved medication assistive personnel; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to diabetes self-management education; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia clearance for access, registry, and employment screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to a recovery residence certification and accreditation program; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child placing agencies licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults and vulnerable and transitioning youth group homes and programs in West Virginia; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the procedure to contest the substantiation of child abuse or neglect; and authorizing the Health Care Authority to promulgate a legislative rule relating to exemption from certificate of need.

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 2874**—A Bill to amend and reenact §59-1-2 and §59-1-2a of the Code of West Virginia, 1931, as amended, relating to providing waiver of initial business registration fees and certain annual business fees to businesses owned by active-duty military members and the spouses of active-duty military members or veterans.

Referred to the Committee on Military.

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 2982**—A Bill to amend and reenact §16-21-1, §16-21-2, and §16-21-3 of the Code of West Virginia, 1931, as amended, all relating to the Second Chance at Life Act; requiring that information about the process of chemical abortion be provided to a woman prior to prescribing pharmaceuticals for, or administering, a chemical abortion except in certain emergency circumstances; updating definitions; specifying that the woman be informed of the possibility of reversal of a chemical abortion if undertaken within a critical time period; dictating minimum standards for printed materials; and requiring documentation of the procedures required hereby.

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 and requested the concurrence of the Senate in the passage of

**Eng. House Bill 3045**—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to deleting the July 1, 2023 sunset provision that would end a rebuttable presumption for a workers' compensation benefits claim that a professional firefighter developed leukemia, lymphoma, or multiple myeloma arising out of and in the course of employment as a firefighter as a rebuttable presumption.

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. House Bill 3164**—A Bill to amend and reenact §61-2-14a of the Code of West Virginia, 1931, as amended, relating to the offense of kidnapping generally; and clarifying elements of the offense.

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 3177**—A Bill to repeal §18-2-5d, §18-2-13b, §18-2-24, §18-2-29, and §18-2-35 of the Code of West Virginia, 1931, as amended; to repeal §18-2E-4a of said code; to repeal §18-3-9b of said code; to repeal §18-4-12 of said code; to repeal §18-5-18e, and §18-5-43 of said code; to repeal §18-7A-36 of said code; to repeal §18-9A-8a of said code; to repeal §18-9B-11a of said code; to repeal §18-10H-4 of said code; to amend and reenact §18-9A-6a, §18-9A-7, and §18-9A-16 of said code; and to amend and reenact §18-9B-1, §18-9B-2, §18-9B-3, §18-9B-4, §18-9B-5, §18-9B-6, §18-9B-6a, §18-9B-7, §18-9B-8, §18-9B-9, §18-9B-10, §18-9B-12, §18-9B-13, §18-9B-14, §18-9B-15, §18-9B-17, §18-9B-18, §18-9B-19, §18-9B-20 and §18-9B-21 of said code, all relating to removing expired, outdated, inoperative and antiquated provisions and report requirements in education code; updating references; repealing expired report requirement related to productive and safe schools; repealing authorization of state board respecting use of revenues from dormitories, home or refectories; repealing outdated structure for collaboration on professional development delivery among state universities, regional education service agencies and center for professional development; repealing unused competitive grant program for selected schools and school districts; repealing unused requirement for state board rule on school uniforms for students; repealing outdated exception to mailing school report cards; repealing outdated mandated reduction in budgeted amount for personal services in certain fiscal year; repealing outdated exception for county board meeting related to fixing salaries of county superintendent; repealing expired study and report on pupils per teacher; repealing expired report requirement relating to county-wide council on productive and safe schools; repealing expired report requirement relating to joint study of retirement systems; removing reference to repealed allocation to teachers retirement fund; removing expired provisions related to additional funding bus system using bio-diesel alternative fuel; repealing expired allowance for regional education service agencies; replacing reference to state board of school finance with state superintendent; removing expired provision prohibiting salary reduction of certain persons due to passage of school finance article; correcting references to tax commissioner for functions previously transferred to state auditor; deleting outdated references to employment term and instructional term; and removing outdated provisions creating state board of school finance and requiring state

superintendent to exercise powers and perform duties; repealing outdated authorization for adjustments to average daily attendance; and repealing mandate for establishment of certain interdisciplinary doctoral 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. Com. Sub. for House Bill 3215**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-4-1a, relating to the requirements of a prosecuting attorney.

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 401**, Relating to WV Consumer Credit and Protection Act.

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

**Com. Sub. for Senate Bill 401** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-5-104 of the Code of West Virginia, 1931, as amended; and to amend and reenact §46A-5-108 of said code; relating to the Consumer Credit and Protection Act; excluding time, savings, and demand accounts offered by a bank from general consumer protection claims; and providing for an effective date.

**Senate Bill 634**, Requiring training of certain officers for persons with autism spectrum disorder.

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

**Com. Sub. for Senate Bill 634** (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 §30-29-5a, relating to criminal justice training for law-enforcement officers and correctional officers regarding individuals with autism spectrum disorders; development of course instruction; defining terms; providing for training in appropriate interactions with individuals with autism spectrum disorder; and authorizing the Law-Enforcement Professional Standards subcommittee to develop guidelines for law-enforcement and correction officer response to individuals on the autism spectrum who are victims or witnesses to a crime, or suspected or convicted of a crime.

And,

**Senate Bill 660**, Providing for cooperation between law-enforcement agencies and military authorities.

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

**Com. Sub. for Senate Bill 660** (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 §15-10-7, relating generally to providing for cooperation between civilian law-enforcement agencies and military authorities to facilitate objective independent investigations of possible offenses.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

**Senate Bill 492**, Establishing program for bonding to reclaim abandoned wind and solar generation facilities.

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

**Com. Sub. for Senate Bill 492** (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-32-1, §22-32-2, §22-32-3, §22-32-4, §22-32-5, §22-32-6, and §22-32-7, all relating generally to establishing and implementing a program to decommission and reclaim wind and solar electrical generation facilities upon closure; making legislative findings; stating legislative purpose; providing a short title; defining terms; requiring the owners of wind generation facilities and solar generation facilities to notify and provide certain information to the Department of Environmental Protection (DEP), including dates when operations began and plans with cost estimates for decommissioning facilities; establishing fees for new and modified applications; requiring DEP to determine and assess a reclamation bond based on a facility's total disturbed acreage; establishing a minimum bond value; requiring the owners of said facilities to submit bonds payable to the state in a form and in a sum determined by the DEP, conditioned on the satisfactory decommissioning; providing that owners of said facilities may enter into alternative reclamation agreements after approval by the DEP; providing that the DEP may modify said plans after proper notification and appeals; providing exemptions from bond requirements for facilities with nameplate capacities of less than 0.5 megawatts and facilities operated by regulated public utilities who can successfully demonstrate to the Public Service Commission (PSC) and DEP financial integrity and long-term stability; providing for administrative penalties for failure to submit decommissioning bonds; providing appellate rights to the Environmental Quality Board; providing transfer of ownership provisions; providing for amended plans for allowing reductions in bond amounts; providing that bond submission does not absolve owners from complying with other applicable regulations and requirements; establishing a Wind and Solar Decommissioning Account within the Office of the West Virginia Treasurer in to which assessed penalties and accrued interest must be paid and held; providing that the account may only be used by the DEP to implement this article and adopted rules; providing that DEP shall administer this act using existing resources and the account; requiring the DEP to maintain and hold bonds or other surety



received; providing for the release of bonds after the DEP is satisfied property has been properly decommissioned in accordance with the plan; providing for bond forfeiture when a facility is not properly decommissioned, if the deficiencies are not rectified; providing that the Office of Environmental Remediation or a private entity by contract may decommission facilities; providing that DEP may file suit to enforce permit and plan conditions and to recoup costs of reclamation; authorizing rulemaking; and providing effective dates.

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,

Randy E. Smith,  
*Chair.*

The bill (Com. Sub. for S. B. 492), under the original double committee reference, was then referred to the Committee on Finance.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 603**, Authorizing new market entrants to conduct remote sports wagering and remote interactive wagering.

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

**Com. Sub. for Senate Bill 603** (originating in the Committee on Finance)—A Bill to amend and reenact §29-22D-1, §29-22D-2, §29-22D-3, and §29-22D-7 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §29-22D-15a; to amend and reenact §29-22E-1, §29-22E-2, §29-22E-3, and §29-22E-7 of said code; and to amend said code by adding thereto a new section, designated §29-22E-15a, all relating to permitting wagering on the results of certain professional or collegiate sports or athletic events and other events authorized as West Virginia Lottery sports wagering activities; permitting wagering on interactive games authorized as West Virginia Lottery interactive wagering activities; providing legislative findings; defining terms; establishing license requirements and prohibitions; and encouraging operators to contract with small business management service providers.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 663**, Providing fee for processing of criminal bonds.

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

**Com. Sub. for Senate Bill 663** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended, relating to providing for a fee for the processing of criminal bonds and the bail piece and requiring all collected fees to be deposited in the Courthouse Facilities Improvement Fund.

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. 663), under the original double committee reference, was then referred to the Committee on Finance.

Senator Woodrum, from the Committee on Interstate Cooperation, submitted the following report, which was received:

Your Committee on Interstate Cooperation has had under consideration

**Senate Bill 668**, Creating Psychology Interjurisdictional Compact.

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

**Com. Sub. for Senate Bill 668** (originating in the Committee on Interstate Cooperation)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-21A-1, §30-21A-2, §30-21A-3, §30-21A-4, §30-21A-5, §30-21A-6, §30-21A-7, §30-21A-8, §30-21A-9, §30-21A-10, §30-21A-11, §30-21A-12, and §30-21A-13, all relating to the Psychology Interjurisdictional Compact; providing for definitions; providing for increased public access to professional psychological services by permitted psychologists to practice across state lines; providing for temporary psychological services; providing for the state's ability to protect the health and welfare of its citizens; providing for the cooperation and exchange of information in compact states; providing for cooperation of compact states in licensure and regulation; providing for adverse actions; providing for enforcement mechanisms for compliance with the compact; providing for coordinated efforts between compact states of holding psychologists accountable to the compact; providing for effective dates of rules upon induction to the compact; providing for duties and authority of the commission; providing for election procedures for commission members; providing for alternative dispute resolution methods; providing for venue for legal action taken against the commission; providing for withdrawal from the compact; and providing for construction and severability of the terms of the compact.

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

Respectfully submitted,

Jack David Woodrum,  
*Chair.*

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Interstate Cooperation.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

**Senate Bill 712** (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §22-6-2 and §22-6-29 of the Code of West Virginia, 1931, as amended, relating to the Office of Oil and Gas of the Department of Environmental Protection; establishing annual oversight fee for wells producing more than 10,000 cubic feet of gas per day; and providing that those fees, if not used for other purposes, may be moved to the Oil and Gas Reclamation Fund.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 713** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15A-4-17 of the Code of West Virginia, 1931, as amended relating generally to inmate good time; updating references to personnel; clarifying that inmates in the custody of the Commissioner of Corrections receive basic good time unless expressly excluded; creating certain exclusions; clarifying that inmates who received good time on or before October 21, 2020, are entitled to the good time, unless it is lost due to a disciplinary violation; establishing basis for earning extra good time in the discretion of the commissioner of corrections; and granting civil immunity to the Division of Corrections and Rehabilitation, its Commissioner, employees, agents, and assigns for any and all claims relating to calculation of good time for certain offenders occurring before October 21, 2020.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 2290**, Initiating a State Employment First Policy to facilitate integrated employment of disabled persons.

With amendments from the Committee on the Workforce pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on Finance.

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. House Bill 2897**, Expiring funds to the balance of the Department of Commerce.

**Eng. House Bill 2899**, Making a supplementary appropriation to the Department of Commerce.

And,

**Eng. House Bill 2920**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Laboratory Services Fund.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senators Baldwin, Woodrum, Blair (Mr. President), Azinger, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel offered the following resolution:

**Senate Resolution 30**—Memorializing the life of the Honorable Mr. Shirley Dean Love, husband, father, broadcast pioneer, businessman, statesman, former member of the West Virginia Senate, former member of the West Virginia House of Delegates, and dedicated public servant.

Whereas, The Honorable Shirley Dean Love was born on May 15, 1933, the son of Earl Clinton and Winona May Hall Love; and

Whereas, The Honorable Shirley Dean Love was a lifelong resident of Fayette County and a faithful member of Oak Hill United Methodist Church, where he displayed his talented voice in the choir beginning at eight years of age; and

Whereas, The Honorable Shirley Dean Love was educated in the public schools of Fayette County, and graduated from Collins High School in 1952; and

Whereas, The Honorable Shirley Dean Love's broadcasting career at WOAY spanned from 1954 to 1997, and landed him in the West Virginia Broadcasters Hall of Fame. His pleasant, charming, and engaging demeanor and unique voice was instantly recognizable throughout southern West Virginia and beyond; and

Whereas, The Honorable Shirley Dean Love began his broadcasting career in radio, where he hosted Juke Box Review for more than 20 years, West Virginia Bandstand, Friday Night Barn Dance, the West Virginia Jamboree, and was the voice of Oak Hill High School football and basketball games for nearly four decades; and

Whereas, The Honorable Shirley Dean Love rose to fame while anchoring Saturday Night Wrestling on WOAY-TV, or as he liked to say, "rasslin", which would eventually pave the way to a career in politics; and

Whereas, The Honorable Shirley Dean Love was appointed to the West Virginia Senate on August 8, 1994, and was elected on November 5, 1994, and reelected in 1996, 2000, and 2004, serving on the Committees on Confirmations (Chair), Agriculture, Enrolled Bills, Finance, Labor, Natural Resources, and Transportation and Infrastructure. He was elected eight times as a Delegate to the Democratic National Convention; and

Whereas, The Honorable Shirley Dean Love was elected to the West Virginia House of Delegates in 2016, where he served one term; and

Whereas, The Honorable Shirley Dean Love was a beloved little league coach in the community, where he taught his youthful players as much about life and leadership as he did about baseball; and

Whereas, Sadly, the Honorable Shirley Dean Love passed away on July 17, 2020, bringing an end to a colorful life of public service and leaving behind a host of family and friends, all of whom will miss him dearly, including his beloved wife of 68 years, Audrey Love; two sons, James "Jimmy" Love, IV, and Dr. Brian Stephen Love (deceased); a daughter, Christie Love and spouse, Judy Fitzgerald; grandchildren, James Love, V, and companion Mary Nell, and also Sarah Love, the mother of James' children, Matthew Love (Allison), Robert Love (Amanda), Benjamin Love (Tiffany), Mary Beth Knight (Pete), and Michael Love and companion Lauren Satyshur; and 11 great grandchildren; and

Whereas, It is fitting that we pay tribute to the life and legacy of the Honorable Shirley Dean Love, a man whose contributions to the state of West Virginia will be felt by many generations to come, and whose spirit will resound throughout the hills of West Virginia forever; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of the Honorable Mr. Shirley Dean Love, husband, father, broadcast pioneer, businessman, statesman, former member of the West

Virginia Senate, former member of the West Virginia House of Delegates, and dedicated public servant; and, be it

*Further Resolved*, That the Senate extends its sincere condolences to the family of the Honorable Shirley Dean Love on his passing; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the family of the Honorable Shirley Dean Love.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Com. Sub. for Senate Concurrent Resolution 14**, Creating WV Women's Suffrage Memorial.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Concurrent Resolution 23**, USMC CPL Guy Maywood Edwards Memorial Bridge.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Concurrent Resolution 52**, Providing for issuance of refunding bonds not to exceed \$22 million.

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

**Senate Concurrent Resolution 53**, Encouraging certain facilities improve palliative care programs.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Concurrent Resolution 54**, Urging Congress and President to protect Second Amendment of US Constitution.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Resolution 28**, Recognizing importance of coal-fired power plants and coal resources to WV's future.

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

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

Senator Caputo requested unanimous consent that the name of Senator Caputo be added as a sponsor of Senate Resolution 28.

At the further request of Senator Caputo, and by unanimous consent, his foregoing request was withdrawn.

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

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 28) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Phillips, Smith, Romano, Stover, Stollings, Swope, and Caputo regarding the adoption of Senate Resolution 28 were ordered printed in the Appendix to the Journal.

**Senate Resolution 29**, Recognizing 20th anniversary of WV Rural Health Infrastructure Loan Fund.

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

At the request of Senator Stollings, 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 eighth order of business.

**Eng. Com. Sub. for Senate Bill 361**, Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor.

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, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—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. 361) 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 483**, Allowing oaths be taken before any person authorized to administer oaths.

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, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—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. 483) 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 487**, Updating Division of Purchasing procurement and spending thresholds.

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, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—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. 487) 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 509**, Removing requirement that determination of medical stability be found prior to admission to mental health facility.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, March 24, 2021, for further amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Trump, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page four, section three-a, line four, by striking out the words “federal or”;

And,

On page four, section three-a, line five, after the word “possession.” by adding the following: Furthermore, while it is clear that it is the government of the United States, and not the government of West Virginia, which has the authority under 18 U. S. C. 922 (g) (4) to determine whether a person has been “committed to a mental institution,” the legislature notes that “federal courts often look to state law to help determine whether a commitment has occurred.” United States v. Vertz, 40 F. App’x 69 (6th Cir. 2002). Under such principles of interpretation, it is the intent of the legislature to make clear that in circumstances under which there is an order finding that a person’s involuntarily hospitalization was necessitated and ordered as a result of a physical condition or disorder, the legislature does not deem this to be a “commitment,” under state law, and the legislature’s determination that such an involuntary hospitalization is not a “commitment” should be viewed by the government of the United States as consistent with the provisions of the amendments to the NICS Improvement Amendments Act of 2007, Public Law 110-180, Tit. I, Sec. 101(c)(1), 121 Stat. 2559, 2562-63 (2008).

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 509 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 509 pass?”

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Martin, Romano, Stollings, and Unger—10.

Absent: Woelfel—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. 509) passed.

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

**Eng. Com. Sub. for Senate Bill 509**—A Bill to amend and reenact §27-5-3 and §27-5-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §27-5-3a, all relating to involuntary hospitalization; providing the Supreme Court of Appeals is requested to provided training to specified persons on medical conditions mimicking, causing, or contributing to a psychiatric presentation; providing that magistrate or mental hygiene commissioner may determine individual be evaluated for medical condition; removing a requirement that a determination of medical stability be found prior to admission to a mental health facility; providing that a physical may be provided to the individual upon admission to the mental health facility; providing that if after entry of order of involuntary hospitalization is entered the cause is determined to be medical rather than physical this shall not serve to make the person banned from possessing a firearm; and requiring specified persons to transport to a diversion facility as designated by the chief medical officer of the state hospital.

*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 610**, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV.

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 610 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: Azinger—1.

Absent: Woelfel—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. 610) 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 644**, Exempting certain persons pursuing degree in speech pathology and audiology from license requirements.

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, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 644) 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 651**, Allowing county boards of education to publish financial statements on website.

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 651 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Boley, Clements, Grady, Hamilton, Karnes, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—21.

The nays were: Baldwin, Caputo, Ihlenfeld, Jeffries, Lindsay, Maroney, Plymale, Romano, Stollings, Stover, Sypolt, and Unger—12.

Absent: Woelfel—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 651) passed.

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

**Eng. Senate Bill 651**—A Bill to amend and reenact §18-9-3a of the Code of West Virginia, 1931, as amended, relating to giving county boards of education the option of publishing their financial statements on their websites rather than publishing as a Class I-0 legal advertisement; requiring county boards to hold a public hearing before publishing on their websites; requiring county boards to provide public notice of the availability of such website posting; requiring county boards to include certain information if they publish their financial statements on their websites; and providing that the changes made by amendments to this section become effective for the fiscal year commencing on July 1, 2023.

*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 658**, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children.

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 658 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, 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. 658) 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 House Bill 2400**, Authorizing the Department of Transportation to promulgate legislative rules.

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, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, 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 H. B. 2400) 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 2400**—A Bill to amend and reenact §64-8-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Transportation to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Highways to promulgate a legislative rule relating to traffic and safety rules; relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to examination and issuance of driver's license; relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to denial, suspension, revocation,

disqualification, restriction, non-renewal, cancellation, administrative appeals and reinstatement of driving privileges; relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to compulsory motor vehicle liability insurance, and relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to special purpose vehicles.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, 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 H. B. 2400) 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 474**, Exempting DOH from Purchasing Division procedures.

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 587**, Making contract consummation with state more efficient.

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 601**, Relating generally to public employees grievance procedure.

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 673**, Relating to venue for bringing civil action or arbitration proceedings under construction contracts.

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 2094**, Relating to the juvenile restorative justice programs.

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:

## **CHAPTER 49. CHILD WELFARE.**

### **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

#### **§49-1-206. Definitions related, but not limited to, child advocacy, care, residential, and treatment programs.**

When used in this chapter, the following terms have the following meanings, unless the context clearly indicates otherwise:

“Child Advocacy Center (CAC)” means a community-based organization that is a member, in good standing, of the West Virginia Child Advocacy Network, Inc., as set forth in §49-3-101 of this code.

“Child care” means responsibilities assumed and services performed in relation to a child’s physical, emotional, psychological, social, and personal needs and the consideration of the child’s rights and entitlements, but does not include secure detention or incarceration under the jurisdiction of the Division of Corrections and Rehabilitation pursuant to §49-2-901 *et seq.* of this code. It includes the provision of child care services or residential services.

“Child care center” means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child.

“Child care services” means direct care and protection of children during a portion of a 24-hour day outside of the child’s own home which provides experiences to children that foster their healthy development and education.

“Child placing agency” means a child welfare agency organized for the purpose of placing children in private family homes for foster care or for adoption. The function of a child placing agency may include the investigation and certification of foster family homes and foster family group homes as provided in this chapter. The function of a child placing agency may also include the supervision of children who are 16 or 17 years of age and living in unlicensed residences.

“Child welfare agency” means any agency or facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including, without limitation, private homes or any facility that provides care for unmarried mothers and their children. A child welfare agency does not include juvenile detention facilities or juvenile correctional facilities operated by or under contract with the Division of Corrections and Rehabilitation, pursuant to §49-2-901 *et seq.* of this code, nor any other facility operated by that division for the secure housing or holding of juveniles committed to its custody.

“Community based” means a facility, program, or service located near the child’s home or family and involving community participation in planning, operation, and evaluation and which may include, but is not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, substance abuse, and any other treatment or rehabilitation services.

“Community-based juvenile probation sanctions” means any of a continuum of nonresidential accountability measures, programs, and sanctions in response to a technical violation of probation, as part of a system of community-based juvenile probation sanctions and incentives, that may include, but are not limited to:

(A) Electronic monitoring;

(B) Drug and alcohol screening, testing, or monitoring;

(C) Youth reporting centers;

(D) Reporting and supervision requirements;

(E) Community service; and

(F) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment.

“Community services” means nonresidential prevention or intervention services or programs that are intended to reduce delinquency and future court involvement.

“Evidence-based practices” means policies, procedures, programs, and practices demonstrated by research to reliably produce reductions in the likelihood of reoffending.

“Facility” means a place or residence, including personnel, structures, grounds, and equipment used for the care of a child or children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose. Facility does not include any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody.

“Family child care facility” means any facility which is used to provide nonresidential child care services for compensation for seven to 12 children, including children who are living in the household, who are under six years of age. A facility may be in a provider’s residence or a separate building.

“Family child care home” means a facility which is used to provide nonresidential child care services for compensation in a provider’s residence. The provider may care for four to six children at one time, including children who are living in the household, who are under six years of age.

“Family resource network” means:

(A) A local community organization charged with service coordination, needs and resource assessment, planning, community mobilization, and evaluation, and which has met the following criteria:

(i) Has agreed to a single governing entity;

(ii) Has agreed to engage in activities to improve service systems for children and families within the community;

(iii) Addresses a geographic area of a county or two or more contiguous counties;

(iv) Has, as the majority of the members of the governing body, nonproviders, which includes family representatives and other members who are not employees of publicly funded agencies, with family representatives as the majority of those members who are nonproviders;

(v) Has members of the governing body who are representatives of local service agencies, including, but not limited to, the public health department, the behavioral health center, the local health and human resources agency, and the county school district; and

(vi) Adheres to principles consistent with the cabinet's mission as part of its philosophy.

(B) A family resource network may not provide direct services, which means to provide programs or services directly to children and families.

"Family support", for the purposes of §49-2-601 *et seq.* of this code, means goods and services needed by families to care for their family members with developmental disabilities and to enjoy a quality of life comparable to other community members.

"Family support program" means a coordinated system of family support services administered by the Department of Health and Human Resources through contracts with behavioral health agencies throughout the state.

"Fictive kin" means an adult of at least 21 years of age, who is not a relative of the child, as defined herein, but who has an established, substantial relationship with the child, including but not limited to, teachers, coaches, ministers, and parents, or family members of the child's friends.

"Foster family home" means a private residence which is used for the care on a residential basis of no more than six children who are unrelated, by blood, marriage, or adoption, to any adult member of the household.

"Foster parent" means a person with whom the department has placed a child and who has been certified by the department, a child placing agency, or another agent of the department to provide foster care.

"Health care and treatment" means:

(A) Developmental screening;

(B) Mental health screening;

(C) Mental health treatment;

(D) Ordinary and necessary medical and dental examination and treatment;

(E) Preventive care including ordinary immunizations, tuberculin testing, and well-child care; and



(F) Nonemergency diagnosis and treatment. However, nonemergency diagnosis and treatment does not include an abortion.

“Home-based family preservation services” means services dispensed by the Department of Health and Human Resources or by another person, association, or group who has contracted with that division to dispense services when those services are intended to stabilize and maintain the natural or surrogate family in order to prevent the placement of children in substitute care. There are two types of home-based family preservation services and they are as follows:

(A) Intensive, short-term intervention of four to six weeks; and

(B) Home-based, longer-term after care following intensive intervention.

“Informal family child care” means a home that is used to provide nonresidential child care services for compensation for three or fewer children, including children who are living in the household who are under six years of age. Care is given in the provider’s own home to at least one child who is not related to the caregiver.

“Kinship parent” means a person with whom the department has placed a child to provide a kinship placement.

“Kinship placement” means the placement of the child with a relative of the child, as defined herein, or a placement of a child with a fictive kin, as defined herein.

“Needs Assessment” means an evidence-informed assessment which identifies the needs a child or family has, which, if left unaddressed, will likely increase the chance of reoccurring.

“Nonsecure facility” means any public or private residential facility not characterized by construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in that facility and which provides its residents access to the surrounding community with supervision.

“Nonviolent misdemeanor offense” means a misdemeanor offense that does not include any of the following:

(A) An act resulting in bodily injury or death;

(B) The use of firearm or other deadly weapon in the commission of the offense;

(C) A domestic abuse offense involving a significant or likely risk of harm to a family member or household member;

(D) A criminal sexual conduct offense; or

(E) Any offense for driving under the influence of alcohol or drugs.

“Out-of-home placement” means a post-adjudication placement in a foster family home, kinship parent home, group home, nonsecure facility, emergency shelter, hospital, psychiatric residential treatment facility, staff secure facility, hardware secure facility, detention facility, or other residential placement other than placement in the home of a parent, custodian, or guardian.

“Out-of-school time” means a child care service which offers activities to children before and after school, on school holidays, when school is closed due to emergencies, and on school calendar days set aside for teacher activities.

“Placement” means any temporary or permanent placement of a child who is in the custody of the state in any foster home, kinship parent home, group home, or other facility or residence.

“Pre-adjudicatory community supervision” means supervision provided to a youth prior to adjudication, for a period of supervision up to one year for an alleged status or delinquency offense.

“Regional family support council” means the council established by the regional family support agency to carry out the responsibilities specified in §49-2-601 *et seq.* of this code.

“Relative family child care” means a home that provides nonresidential child care services only to children related to the caregiver. The caregiver is a grandparent, great-grandparent, aunt, uncle, great-aunt, great-uncle, or adult sibling of the child or children receiving care. Care is given in the provider’s home.

“Relative of the child” means an adult of at least 21 years of age who is related to the child, by blood or marriage, within at least three degrees.

“Residential services” means child care which includes the provision of nighttime shelter and the personal discipline and supervision of a child by guardians, custodians, or other persons or entities on a continuing or temporary basis. It may include care or treatment, or both, for transitioning adults. Residential services does not include or apply to any juvenile detention facility or juvenile correctional facility operated by the Division of Corrections and Rehabilitation, created pursuant to this chapter, for the secure housing or holding of juveniles committed to its custody.

“Restorative justice program” means a voluntary, community based program which utilizes evidence-based practices that provide an opportunity for a juvenile to accept responsibility for and participate in setting consequences to repair harm caused by the juvenile against the victim and the community by means of facilitated communication including, but not limited to, mediation, dialogues, or family group conferencing, attended voluntarily by the victim, the juvenile, a facilitator, a victim advocate, community members, or supporters of the victim or the juvenile.

“Risk and needs assessment” means a validated, standardized actuarial tool which identifies specific risk factors that increase the likelihood of reoffending and the factors that, when properly addressed, can reduce the likelihood of reoffending.

“Scattered-site living arrangement” means a living arrangement where youth, 17 to 26 years of age, live in a setting that allows staff to be available as needed, depending on the youth’s level of autonomy. Sites for such living arrangements shall be in community environments to allow the youth full access to services and resources in order to fully develop independent living skills.

“Secure facility” means any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.

“Staff secure facility” means any public or private residential facility characterized by staff restrictions of the movements and activities of individuals held in lawful custody in such facility,

and which limits its residents' access to the surrounding community, but is not characterized by construction fixtures designed to physically restrict the movements and activities of residents.

"Standardized screener" means a brief, validated nondiagnostic inventory or questionnaire designed to identify juveniles in need of further assessment for medical, substance abuse, emotional, psychological, behavioral, or educational issues, or other conditions.

"State family support council" means the council established by the Department of Health and Human Resources pursuant to §49-2-601 *et seq.* of this code to carry out the responsibilities specified in §49-2-101 *et seq.* of this code.

"Supervised group setting" means a setting where youth, 16 to 21 years of age, live with staff onsite or are available 24 hours per day and seven days per week. In this setting, staff provide face to face daily contact with youth.

"Time-limited reunification services" means individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, services designed to provide temporary child care, and therapeutic services for families, including crisis nurseries and transportation to or from those services, provided during 15 of the most recent 22 months a child or juvenile has been in foster or in a kinship placement, as determined by the earlier date of the first judicial finding that the child is subjected to abuse or neglect, or the date which is 60 days after the child or juvenile is removed from home.

"Technical violation" means an act that violates the terms or conditions of probation or a court order that does not constitute a new delinquent offense.

"Truancy diversion specialist" means a school-based probation officer or truancy social worker within a school or schools who, among other responsibilities, identifies truants and the causes of the truant behavior, and assists in developing a plan to reduce the truant behavior prior to court involvement.

## **ARTICLE 4. COURT ACTIONS.**

### **§49-4-725. Restorative justice programs.**

(a) The court or prosecuting attorney may ~~divert~~ offer a juvenile, ~~referred to the court for a status offense or for a nonviolent misdemeanor offense, to~~ against whom a petition has been filed alleging that the juvenile has committed any of the offenses set forth in subsection (b) of this section, the opportunity to participate in a voluntary restorative justice program, where available, at any time prior to adjudication disposition of the case.

(b) A juvenile is eligible to participate in a restorative justice program if the offense that the juvenile is alleged to have committed is:

(1) A status offense;

(2) An offense that would constitute a nonviolent offense if committed by an adult;

(3) An offense that would constitute misdemeanor assault pursuant to §61-2-9(b) of this code if committed by an adult; or

(4) An offense that would constitute misdemeanor battery pursuant to §61-2-9(c) of this code if committed by an adult.

(c) The juvenile or the victim or both may decline and shall not be required to participate in a restorative justice program: *Provided*, That any declination by the juvenile or the victim or both shall not preclude future participation in a restorative justice program during the current proceeding or any subsequent proceeding under this article.

(d) A restorative justice program shall:

~~(1) Emphasize repairing the harm against the victim and the community caused by the juvenile;~~

~~(2) Include victim-offender dialogues or family group conferencing, attended voluntarily by the victim, the juvenile offender, a facilitator, a victim advocate, community members, or supporters of the victim or the juvenile offender that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the crime and to participate in setting consequences to repair the harm; and~~

~~(3) Implement sanctions for the juvenile~~ implement measures agreed to by the victim and the juvenile which are designed to provide redress to the victim and community, including, but not limited to, restitution to the victim, restitution to the community, services for the victim ~~or~~, services for the community, or any other ~~sanction~~ reasonable measure intended to provide restitution or services to the victim or the community.

~~(e) (e)~~ If a juvenile is referred to, and successfully completes, a restorative justice program, including all agreed-to measures pursuant to subsection (d) of this section, the petition against the juvenile shall be dismissed.

~~(d) (f)~~ No self-incriminating information obtained from the juvenile as the result of a restorative justice program is admissible as evidence against him or her in a subsequent proceeding under this article.

The bill (Eng. Com. Sub. for H. B. 2094), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2382**, Authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards.

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

**Eng. Com. Sub. for House Bill 2896**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

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

**Eng. House Bill 2898**, Making a supplementary appropriation to WorkForce West Virginia – Workforce Investment Act.

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

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

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

That the total appropriation for the fiscal year ending June 30, 2021, to fund 8749, fiscal year 2021, organization 0323, be supplemented and amended by increasing an existing item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Sec. 7. Appropriations from federal block grants.**

*376 – WorkForce West Virginia–*

*Workforce Investment Act*

Fund 8749 FY 2021 Org 0323

	<b>Appro-</b>		<b>Federal</b>
	<b>priation</b>		<b>Funds</b>
3 Current Expenses.....	13000	\$	6,800,000

The bill (Eng. H. B. 2898), as amended, was then ordered to third reading.

**Eng. House Bill 2901**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

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

**Eng. House Bill 2903**, Making a supplementary appropriation to the Department of Homeland Security, West Virginia State Police.

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

**Eng. House Bill 2940**, Making a supplementary appropriation to the Department of Education, State Board of Education – State Department of Education.

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

**Eng. House Bill 2941**, Supplementary appropriation decreasing an existing item and adding a new item of appropriation to the Department of Revenue, Insurance Commissioner.

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

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

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

That the total appropriation for the fiscal year ending June 30, 2021, to fund 8883, fiscal year 2021, organization 0704, be supplemented and amended by decreasing an existing item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Sec. 6. Appropriations of federal funds.**

**DEPARTMENT OF REVENUE**

*362 – Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2021 Org 0704

	<b>Appro- piation</b>		<b>Federal Funds</b>
2 Current Expenses.....	13000	\$	83,000

And, that the total appropriation for the fiscal year ending June 30, 2021, to fund 8883, fiscal year 2021, organization 0704, be supplemented and amended by adding a new item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Sec. 6. Appropriations of federal funds.**

**DEPARTMENT OF REVENUE**

*362 – Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2021 Org 0704

	<b>Appro- piation</b>		<b>Federal Funds</b>
1a Personal Services and Employee Benefits .....	00100	\$	83,000

The bill (Eng. H. B. 2941), as amended, was then ordered to third reading.

(Senator Maynard in the Chair.)

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 419**, Redefining “firearm” to match federal code.

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

**Com. Sub. for Senate Bill 458**, Relating to possession of firearms by individuals during state of emergency.

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

**Senate Bill 488**, Relating to distributing hotel occupancy tax to convention and visitor’s bureaus.

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

**Senate Bill 521**, Extending licensure renewal term of certain private investigators, security guards, and associated firms.

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

**Com. Sub. for Senate Bill 534**, Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds.

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

**Com. Sub. for Senate Bill 585**, Requiring BOE create and provide course in family and consumer sciences in secondary schools.

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

**Senate Bill 588**, Requiring county boards of education and county superintendents to comply with instructions of State Board of Education.

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

**Com. Sub. for Senate Bill 604**, Requiring county commissions create districts for towing services.

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

**Senate Bill 680**, Allowing State Superintendent of Schools define classroom teachers certified in special education.

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

**Senate Bill 710**, Requiring impact statement in certain instances of school closing or consolidation.

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

**Com. Sub. for Senate Joint Resolution 11**, Constitutional Officer Term Limit Amendment.

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

And,

**Eng. Com. Sub. for House Bill 2260**, Relating to procurement of child placing services.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Lindsay, Rucker, and Romano.

The Senate 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 and resolutions on March 24, 2021:

**Senate Bill 419**: Senators Maynard, Phillips, and Rucker;

**Senate Bill 458**: Senator Maynard;

**Senate Bill 634**: Senators Romano, Woodrum, Rucker, and Woelfel;

**Senate Bill 668**: Senator Woodrum;

**Senate Bill 699**: Senator Phillips;

**Senate Joint Resolution 1**: Senators Maynard and Azinger;

**Senate Joint Resolution 2**: Senator Smith;

**Senate Joint Resolution 6**: Senator Smith;

**Senate Joint Resolution 7**: Senator Smith;

**Senate Joint Resolution 8**: Senator Smith;



**Senate Resolution 28:** Senator Smith;

And,

**Senate Resolution 29:** Senators Phillips, Lindsay, Hamilton, Stollings, and Romano.

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Takubo, at 1 p.m., the Senate adjourned until tomorrow, Friday, March 26, 2021, at 10 a.m.

---

## **SENATE CALENDAR**

**Friday, March 26, 2021  
10:00 AM**

### **UNFINISHED BUSINESS**

S. R. 30 - Memorializing life of Honorable Mr. Shirley Dean Love

### **THIRD READING**

Eng. Com. Sub. for S. B. 474 - Exempting DOH from Purchasing Division procedures

Eng. Com. Sub. for S. B. 587 - Making contract consummation with state more efficient (original similar to HB3059)

Eng. Com. Sub. for S. B. 673 - Relating to venue for bringing civil action or arbitration proceedings under construction contracts

Eng. Com. Sub. for H. B. 2094 - Relating to the juvenile restorative justice programs

Eng. Com. Sub. for H. B. 2382 - Authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards

Eng. Com. Sub. for H. B. 2896 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services

Eng. H. B. 2898 - Making a supplementary appropriation to WorkForce West Virginia – Workforce Investment Act

Eng. H. B. 2901 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services

Eng. H. B. 2903 - Making a supplementary appropriation to the Department of Homeland Security, West Virginia State Police

Eng. H. B. 2940 - Making a supplementary appropriation to the Department of Education, State Board of Education – State Department of Education

Eng. H. B. 2941 - Supplementary appropriation decreasing an existing item and adding a new item of appropriation to the Department of Revenue, Insurance Commissioner

### **SECOND READING**

Com. Sub. for S. B. 419 - Redefining “firearm” to match federal code

Com. Sub. for S. B. 458 - Relating to possession of firearms by individuals during state of emergency

S. B. 488 - Relating to distributing hotel occupancy tax to convention and visitor’s bureaus

S. B. 521 - Extending licensure renewal term of certain private investigators, security guards, and associated firms

Com. Sub. for S. B. 534 - Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds

Com. Sub. for S. B. 585 - Requiring BOE create and provide course in family and consumer sciences in secondary schools

S. B. 588 - Requiring county boards of education and county superintendents to comply with instructions of State Board of Education

Com. Sub. for S. B. 601 - Relating generally to public employees grievance procedure

Com. Sub. for S. B. 604 - Requiring county commissions create districts for towing services

S. B. 680 - Allowing State Superintendent of Schools define classroom teachers certified in special education

S. B. 710 - Requiring impact statement in certain instances of school closing or consolidation

Com. Sub. for S. J. R. 11 - Constitutional Officer Term Limit Amendment

Eng. Com. Sub. for H. B. 2260 - Relating to procurement of child placing services

### **FIRST READING**

Com. Sub. for S. B. 401 - Relating to WV Consumer Credit and Protection Act

Com. Sub. for S. B. 603 - Authorizing new market entrants to conduct remote sports wagering and remote interactive wagering

Com. Sub. for S. B. 634 - Requiring training of certain officers for persons with autism spectrum disorder

Com. Sub. for S. B. 660 - Providing for cooperation between law-enforcement agencies and military authorities

Com. Sub. for S. B. 668 - Creating Psychology Interjurisdictional Compact

S. B. 712 - Relating to oversight fees for certain gas-producing wells

S. B. 713 - Relating generally to inmate good time

Eng. Com. Sub. for H. B. 2290 - Initiating a State Employment First Policy to facilitate integrated employment of disabled persons - (Com. amend. and title amend. pending)

Eng. H. B. 2897 - Expiring funds to the balance of the Department of Commerce

Eng. H. B. 2899 - Making a supplementary appropriation to the Department of Commerce

Eng. H. B. 2920 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Laboratory Services Fund

NO COMMITTEE MEETING ANNOUNCEMENTS