

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2021
TWENTIETH DAY

Charleston, West Virginia, Monday, March 1, 2021

The Senate met at 11:01 a.m.

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

Prayer was offered by the Honorable Glenn D. Jeffries, a senator from the eighth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan W. Weld, a senator from the first district.

Pending the reading of the Journal of Friday, February 26, 2021,

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.

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. Senate Bill 14, Providing for additional options for alternative certification for teachers.

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 2265—A Bill to amend and reenact §30-5-7 and §30-5-19 of the Code of West Virginia, 1931, as amended, relating to collaborative pharmacy practice and updating rulemaking authority.

Referred to the Committee on Health and Human Resources.

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

Eng. Com. Sub. for House Bill 2290—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10Q-1, §18-10Q-2, §18-10Q-3, §18-10Q-4, and §18-10Q-5; all relating to initiating a State Employment First Policy to facilitate integrated employment of disabled persons; providing legislative findings; establishing a taskforce to develop a State Employment First Policy; providing for implementation of the State Employment First Policy; and providing definitions for “competitive integrated employment” and “customized employment”; and incorporating a sunset provision.

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

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

Eng. Com. Sub. for House Bill 2529—A Bill to amend and reenact §18B-1-1e of the Code of West Virginia, 1931, as amended, relating to prohibiting state institutions of higher education from discriminating against graduates of private, nonpublic, or home schools by requiring them to submit to alternative testing as a precondition for acceptance into the institution of higher education; and prohibiting institutions of higher education from rejecting a person with appropriate diploma or credentialing for admission to an institution of higher education solely because their secondary education was not accredited by the state Board of Education or agency the board approves.

Referred to the Committee on Education.

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

House Concurrent Resolution 15—Recognizing the last day of February every year as Rare Disease Day to bring awareness to various rare diseases and the need to continue to fund research and find a treatment.

Referred to the Committee on Health and Human Resources.

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 263, Permitting online raffles to benefit nonprofit organizations.

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

Com. Sub. for Senate Bill 263 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §47-20-2 of the Code of West Virginia, 1931, as amended, and to amend and reenact §47-21-2 all relating to authorizing charitable and public service organizations to raise funds by conducting charitable raffles and bingo virtually over the internet; and defining terms.

Senate Bill 332, Providing procedure for WV to select delegates to Article V Convention.

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

Com. Sub. for Senate Bill 332 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3, §3-11A-4, and §3-11A-5, all relating to providing procedures for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America; defining terms; directing Legislature to establish committee of correspondence for Article V convention; authorizing participation by delegates in Article V convention only when each state has equal vote; setting forth delegate duties and responsibilities; setting forth oath for candidate for delegate or alternate; designating delegates and alternates as public officials and subject to West Virginia Governmental Ethics Act; providing for immediate recall of delegate casting unauthorized vote and replacement with alternate; directing Legislature to certify certain information to Article V convention; making violation of delegate's oath a felony; and providing criminal penalties for violation of a delegate's oath.

And,

Senate Bill 345, Expanding alcohol test and lock program to include offenders with drug-related offense.

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

Com. Sub. for Senate Bill 345 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-5A-3a of the Code of West Virginia, 1931, as amended; relating to expansion of the alcohol test and lock program to offenders with a drug related offense; renaming the alcohol test and lock program to the Motor Vehicle Alcohol and Drug Test and Lock Program; authorizing the commissioner to require drug testing; authorizing deferral of the revocation period for a participant with a drug offense; and authorizing an offender of driving while license suspended or revoked, driving while license revoked for driving under the influence of alcohol, controlled substances or drugs, or while having alcoholic concentration in the blood of eight hundredths of one percent or more, by weight, or for refusing to take secondary chemical test of blood alcohol contents, to participate in the Motor Vehicle Alcohol And Drug Test And Lock Program.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
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 Senator Jeffries:

Senate Bill 477—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-5i, relating to creating the West Virginia Children's Vision Act; and requiring proof of vision examination of children enrolling in West Virginia public or private schools.

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

By Senator Weld:

Senate Bill 478—A Bill to amend and reenact §15-1J-4 of the Code of West Virginia, 1931, as amended, relating to permitting the use of established federal or state contracts.

Referred to the Committee on Military.

By Senator Weld:

Senate Bill 479—A Bill to amend and reenact §15-1G-10 of the Code of West Virginia, 1931, as amended, relating to the West Virginia veterans service decoration and West Virginia Service Cross.

Referred to the Committee on Military.

By Senator Jeffries:

Senate Bill 480—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10Q-1, §18-10Q-2, §18-10Q-3, and §18-10Q-4, all relating to wages of persons with disabilities; initiating a State Employment First Policy to facilitate integrated employment of disabled persons; providing legislative findings; defining terms; establishing a taskforce to develop a State Employment First Policy; and providing for implementation of the State Employment First Policy.

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

By Senator Jeffries:

Senate Bill 481—A Bill to amend and reenact §61-1-9 of the Code of West Virginia, 1931, as amended, relating to increasing the misdemeanor penalty for impersonation of a law-enforcement officer or official to include the possibility of confinement in jail.

Referred to the Committee on the Judiciary.

By Senator Karnes:

Senate Bill 482—A Bill to amend and reenact §18-7A-17 of the Code of West Virginia, 1931, as amended, relating to providing that members of the State Teachers Retirement System shall be considered absent from service as a teacher or nonteacher while serving as an officer with a statewide professional teaching association, or who have served in that capacity; and providing that retirants, who served in that capacity while members, shall be considered to have been absent from service as a teacher by reason of that service.

Referred to the Committee on Pensions.

By Senator Weld:

Senate Bill 483—A Bill to amend and reenact §44-1-1, §44-1-3, and §44-1-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §44-1-31, all relating to allowing an oath to be taken before any person authorized to administer oaths under the laws of this state.

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 484—A Bill to amend and reenact §61-2-9a of the Code of West Virginia, 1931, as amended, relating to stalking; adding the word stalking in a previously defined offense.

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 485—A Bill to amend and reenact §61-7-15a of the Code of West Virginia, 1931, as amended, relating to use or presentation of a firearm during the commission of a felony; and amending the offense to include possession of a firearm.

Referred to the Committee on the Judiciary.

By Senator Swope:

Senate Bill 486—A Bill to amend and reenact §5A-6-2, §5A-6-3, §5A-6-4, §5A-6-4b, §5A-6-4c, §5A-6-5, §5A-6-6, §5A-6-7, and §5A-6-8 of the Code of West Virginia, 1931, as amended, all relating to the Office of Technology; renaming the Chief Technology Officer; updating definitions; updating authority of the Chief Technology Officer; continuing special fund; providing an information technology governance structure for executive agencies; authorizing the Chief Technology Officer to provide training; authorizing the Project Management Office to review agency proposals for technology investment; providing criteria to evaluate proposals; authorizing the Project Management Office to maintain an enterprise technology portfolio; authorizing the Project Management Office to collect necessary data to develop a technology portfolio; authorizing the Chief Technology Officer to establish an advisory committee; and authorizing the Chief Technology Officer to request resources and support from the federal government for cybersecurity and technology initiatives.

Referred to the Committee on Government Organization.

By Senator Swope:

Senate Bill 487—A Bill to amend and reenact §5A-3-10 and §5A-3-11 of the Code of West Virginia, 1931, as amended, all relating to updating state procurement procedures and spending thresholds; authorizing the Director of the Division of Purchasing to delegate bid solicitations and commodity procurement to spending units within thresholds to be determined by the director; authorizing the director to increase or decrease the dollar limit of agency-delegated procurements based upon inspection; providing a process for an agency to cure inspection findings; establishing method for calculation of total procurement by commodity; providing that agency-delegated procurements must follow the same process as procurements under the supervision of the Purchasing Division; providing access to agency-delegated procurement records as public records; and defining monetary ranges for different means of collecting competitive bids.

Referred to the Committee on Government Organization.

By Senator Maynard:

Senate Bill 488—A Bill to amend and reenact §7-18-13a and §7-18-14 of the Code of West Virginia, 1931, as amended, all relating to the distribution of hotel occupancy tax proceeds to convention and visitor's bureaus; providing that a convention and visitor's bureau shall satisfy certain requirements to receive funding from hotel occupancy taxes; requiring certain reporting from convention and visitor's bureaus; requiring triennial financial reviews of convention and visitor's bureaus; clarifying that the State Auditor and Legislative Auditor may review the operations and finances of a convention and visitor's bureau; prohibiting the authorization of a new convention and visitor's bureau that does not satisfy certain requirements; and clarifying that it is a misdemeanor offense for a member of a governing body to facilitate the distribution of hotel occupancy tax proceeds to a convention and visitor's bureau that does not satisfy certain requirements.

Referred to the Committee on Government Organization.

By Senator Clements:

Senate Bill 489—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to returning the refundable exemption for road construction contractors to the State Road Fund; transferring revenues collected from the state's consumers sales and service tax and the state's use tax to the State Road Fund; and specifying the effective date.

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

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 490—A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Veterans' Assistance, Department of Veterans' Assistance, fund 0456, fiscal year 2021, organization 0613, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

By Senator Clements:

Senate Bill 491—A Bill to amend and reenact §54-2-12, §54-2-13, §54-2-14, §54-2-14a, §54-2-15, §54-2-16, §54-2-18, and §54-2-21 of the Code of West Virginia, 1931, as amended, all relating to adjusting the interest rate to be paid in condemnation cases; changing the rate of interest from a fixed percentage to a floating rate tied to a federal discount rate; and updating language to meet modern legislative drafting standards.

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

By Senator Smith:

Senate Bill 492—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; requiring DEP to determine and assess a reclamation bond based on a facility's total disturbed acreage; establishing a minimum bond value of \$150,000; 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; providing for administrative penalties for failure to submit decommissioning bonds of not more than \$10,000 for the first day and not more than \$500 for each additional day; 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.

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

By Senator Azinger:

Senate Bill 493—A Bill to amend and reenact §33-12-8 and §33-12-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-12B-13 and §33-12B-14 of said code, all relating to the issuance of license suspensions to insurance producers and insurance adjusters who have failed to meet continuing education requirements; replacing the requirement that the Insurance Commissioner send license suspensions by certified mail with a requirement that the suspensions be sent by electronic mail or regular mail; requiring that each insurance producer or insurance adjuster report his or her respective electronic mail address and contact information to the Insurance Commissioner; and requiring the Insurance Commissioner to maintain certain information.

Referred to the Committee on Banking and Insurance.

By Senator Azinger:

Senate Bill 494—A Bill to amend and reenact §23-2C-16 of the Code of West Virginia, 1931, as amended, relating to authorizing the Insurance Commissioner to transfer moneys from the Insurance Commission Fund, also known as the commissioner's operating fund, into the Workers' Compensation Old Fund to reduce any deficit balance of the Old Fund.

Referred to the Committee on Finance.

By Senator Woelfel:

Senate Bill 495—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8B-19, relating to creating a criminal offense of sexual extortion; and creating a criminal offense of sexual extortion by a person holding a position of trust, supervisory authority, or disciplinary power of another person.

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 496—A Bill to amend and reenact §61-11-18 of the Code of West Virginia, 1931, as amended, relating to punishment for second or third offense felony; and authorizing the use of a conviction under any law of the United States or any other state for an offense that has substantially similar elements of a qualifying offense.

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 497—A Bill to amend and reenact §61-11-8 of the Code of West Virginia, 1931, as amended, relating to the penalty for attempted murder; increasing the penalty for attempted murder of the first degree; and creating a new penalty for attempted murder of the second degree.

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 498—A Bill to amend and reenact §61-8B-1 of the Code of West Virginia, 1931, as amended, relating to modifying the definition of "sexual contact".

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 499—A Bill to amend and reenact §60A-4-406 of the Code of West Virginia, 1931, as amended, relating to parole eligibility for drug distribution offenses; and adding distribution in, on, or within 100 feet of real property comprising a recovery residence, or offering treatment or counseling to persons suffering from substance use disorder.

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 500—A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to the criminal offense of intimidation of, and retaliation against, public officers and employees, jurors, and witnesses; and removing certain language from the elements of the offense.

Referred to the Committee on the Judiciary.

By Senators Hamilton, Stover, and Woodrum:

Senate Bill 501—A Bill to amend and reenact §20-2-42 of the Code of West Virginia, 1931, as amended, relating to indexing of license and stamp fees; and continuing the authority to index license and stamp fees.

Referred to the Committee on Natural Resources.

By Senators Hamilton, Stover, and Woodrum:

Senate Bill 502—A Bill to amend and reenact §20-2B-7 of the Code of West Virginia, 1931, as amended, relating to lifetime hunting, fishing, and trapping licenses for residents who have not reached their 15th birthday; providing that residents who have not reached their 15th birthday may be eligible to receive their lifetime hunting, fishing, and trapping license; providing that adopted children who have not reached their 15th birthday may be eligible to receive their lifetime hunting, fishing, and trapping license; providing that lifetime hunting, fishing, and trapping license fees for adopted children are calculated from the date of adoption decree or order; and providing the Director of the Division of Natural Resources emergency legislative rule-making authority.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

By Senator Hamilton:

Senate Bill 503—A Bill to amend and reenact §60A-4-401, §60A-4-407, and §60A-4-407a of the Code of West Virginia, 1931, as amended, relating to establishing the criminal offense of using or being under the influence of a controlled substance unless obtained directly from, or pursuant to, a valid prescription or order of a practitioner; providing criminal penalties for violation; providing for conditional discharge of offense for first violation; and providing additional conditions for authorizing additional requirements to obtain a final order of discharge and dismissal.

Referred to the Committee on the Judiciary.

By Senator Rucker:

Senate Bill 504—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-1-24, relating to review of any executive order issued by the President of the United States by the Legislature; and prohibiting the state, a political subdivision,

or any other publicly funded organization from implementing an executive order that restricts a person's rights or that is determined unconstitutional by the West Virginia Attorney General.

Referred to the Committee on the Judiciary.

By Senator Unger:

Senate Bill 505—A Bill to amend and reenact §4-2-1 and §4-2-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §4-2-6a; and to amend and reenact §4-3-3c of said code, all relating to the establishment of the Office of Regulatory and Fiscal Affairs under the Joint Committee on Government and Finance; clarifying the duties of the Legislative Auditor; creating the Office of Regulatory and Fiscal Affairs as an advisory body to the Legislature; establishing processes for the conduct of fiscal notes and economic impact analysis; requiring state agencies to provide information to the Office of Regulatory and Fiscal Affairs upon request; authorizing certain members of the Legislature to request an economic impact analysis of the rules of the state; permitting the chairs of the Joint Committee on Government and Finance to request certain performance reviews and analysis of existing statutes; and clarifying the organization of joint legislative agencies.

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

By Senator Clements:

Senate Bill 506—A Bill to amend and reenact §49-4-722 of the Code of West Virginia, 1931, as amended, relating to persons 18 years of age or older in the custody of the Bureau of Juvenile Services; and providing that such individuals who commit a criminal offense while in the custody of the bureau shall not be kept within sight or sound of adult inmates.

Referred to the Committee on the Judiciary.

By Senator Swope:

Senate Bill 507—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-22a; and to amend and reenact §15-5-26 of said code, all relating to providing exemptions from certain taxes for out-of-state businesses, out-of-state affiliates of in-state businesses, and their employees for work responding to declared disasters and states of emergency; making legislative findings; defining terms; specifying tax exemptions and their scope; establishing filing and notice procedures; and providing an immediate date of effect.

Referred to the Committee on Finance.

By Senator Woodrum:

Senate Bill 508—A Bill to amend and reenact §5A-8-15 of the Code of West Virginia, 1931, as amended, relating to public records management and preservation; and increasing available funds in the Public Records and Preservation Revenue Account for grants to counties for records management, access, and preservation purposes.

Referred to the Committee on Government Organization.

By Senator Trump:

Senate Bill 509—A Bill to amend and reenact §27-5-3 of the Code of West Virginia, 1931, as amended, relating to involuntary hospitalization; removing a requirement that a determination of

medical stability be found prior to admission to a mental health facility; and providing that a physical may be provided to the individual upon admission to the mental health facility.

Referred to the Committee on Health and Human Resources.

By Senator Maynard:

Senate Bill 510—A Bill to amend and reenact §8-12-20 of the Code of West Virginia, 1931, as amended, relating to extending Adopt-A-Street programs to unimproved public roads; extending the concept to authorize volunteer improvements to the roadway and road surface; empowering nonprofit entities to administer any necessary roadwork improvements; and providing provisions for disposal of solid waste left along the roadways.

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

By Senators Takubo, Maynard, Smith, and Weld:

Senate Bill 511—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32; and to amend and reenact §57-5-4j of said code, all relating to preventing compensatory damage awards for medical expenses from including sums that the claimant has not and will not pay for medical services or treatment.

Referred to the Committee on the Judiciary.

By Senators Takubo, Trump, Maynard, and Smith:

Senate Bill 512—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32; and to amend and reenact §55-7G-4 and §55-7G-8 of said code, all relating to the filing of asbestos and silica claims; providing that a product liability defendant may not be held liable for products sold by a third party; providing that plaintiffs shall include sworn information with any asbestos or silica action filed after the effective date of the amendments to the code; specifying the information to be included in sworn information; providing for the dismissal without prejudice of asbestos or silica actions filed against defendants whose product or premises have not been identified; providing for the dismissal without prejudice of asbestos or silica actions for failure to comply with sworn information filing requirements; and allowing for the consolidation of any asbestos or silica actions with the consent of all parties.

Referred to the Committee on the Judiciary.

By Senator Woodrum:

Senate Bill 513—A Bill to repeal §20-2-5f of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-1-2, §20-2-5, §20-2-22a, and §20-2-44b of said code, all relating to the regulation of natural resources; modifying definitions of “commissioner”, “game fish”, and “open season”; and relating to hunting dog training season, bear hunting dog training season, and the bear damage stamp.

Referred to the Committee on Natural Resources.

By Senators Smith and Takubo:

Senate Bill 514—A Bill to amend and reenact §20-1-16 of the Code of West Virginia, 1931, as amended relating to the Natural Resources Commission; providing for the composition and membership of the commission; providing criteria and qualifications for the appointment of commissioners; and providing for reimbursement of expenses for commissioners.

Referred to the Committee on Natural Resources.

Senators Smith, Azinger, Boley, Karnes, Martin, Phillips, Roberts, Rucker, Swope, Sypolt, Tarr, Weld, and Woodrum offered the following resolution:

Senate Concurrent Resolution 10—Applying to and urging Congress to call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States to limit the terms of office that a person may be elected as a member of the United States House of Representatives, and to set a limit on the number of terms that a person may be elected as a member of the United States Senate.

Whereas, The Legislature of West Virginia hereby makes an application to Congress, as provided by Article V of the Constitution of the United States, to call a convention limited to proposing an amendment to the Constitution of the United States to set a limit on the number of terms that a person may be elected as a member of the United States House of Representatives, and to set a limit on the number of terms that a person may be elected as a member of the United States Senate; and

Whereas, This application shall be considered as covering the same subject matter as the applications from other states to Congress to call a convention to set a limit on the number of terms that a person may be elected to the House of Representatives of the Congress of the United States and the Senate of the United States; and this application shall be aggregated with same for the purpose of attaining the two thirds of states necessary to require Congress to call a limited convention on this subject, but shall not be aggregated with any other applications on any other subject; and

Whereas, This application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two thirds of the several states have made applications on the same subject; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges Congress to call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States to call a convention limited to proposing an amendment to the Constitution of the United States of America to set a limit on the number of terms that a person may be elected as a member of the United States House of Representatives or as a member of the United States Senate; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward copies of this resolution to the President and Secretary of the Senate of the United States and to the Speaker, Clerk, and Judiciary Committee Chairman of the House of Representatives of the Congress of the United States, and copies to the members of the said Senate and House of Delegates from this state; also to forward copies thereof to the presiding officers of each of the legislative houses in the several states, requesting their cooperation.

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 16, Providing continued eligibility for developmental disability services to dependents of military members.

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 16 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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 16) 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 53, Providing person criminally responsible for another’s death may not be involved in burial arrangements.

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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 53) passed.

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

Eng. Com. Sub. for Senate Bill 53—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-6-22b, relating to barring a person who has been charged by a criminal complaint, indictment, or a child abuse petition with willfully and intentionally causing the death of another from participating in or planning the funeral or burial of the deceased; and authorizing the circuit court of the county in which the charge or petition is pending to waive the prohibition, in whole or in part, for good cause shown.

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

Eng. Senate Bill 308, Modifying requirement that racetrack participate in WV Thoroughbred Development Fund by certain date.

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: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Azinger and Martin—2.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 308) 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 321, Clarifying and updating language regarding Fairmont State alumni license plates.

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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 321) 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 338, Creating Fire Service Equipment and Training Fund.

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

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

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 338) passed.

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

Eng. Senate Bill 338—A Bill to amend and reenact §15A-11-11 of the Code of West Virginia, 1931, as amended, relating to continuing the Fire Service Equipment and Training Fund; restricting use of grant funds to specified purposes; specifying disposition of grant funds remaining in fund at the end of the fiscal year; requiring Fire Commission to establish an equipment and training grant program for volunteer and part-volunteer companies based upon certain circumstances; specifying criteria State Fire Marshal shall consider when making grants; authorizing Fire Commission to propose emergency legislative rules and legislative rules; requiring Legislative Auditor notify State Fire Marshal of any volunteer or part-volunteer department that is ineligible to receive grant funds; and making volunteer or part-volunteer department or companies ineligible to receive grant funds until Legislative Auditor informs State Fire Marshal that the company or department has come into compliance.

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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 338) takes effect from passage.

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

Eng. Senate Bill 358, Removing prohibition on ATMs located in area where racetrack video lottery machines are located.

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 358 pass?”

On the passage of the bill, the yeas were: Clements, Grady, Hamilton, Maroney, Martin, Maynard, Nelson, Phillips, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—18.

The nays were: Azinger, Baldwin, Beach, Boley, Caputo, Ihlenfeld, Jeffries, Karnes, Lindsay, Plymale, Roberts, Romano, Stollings, Unger, and Woelfel—15.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 358) 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 374, Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies.

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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 374) 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 377, Relating to extension for boil water advisories by water utility or public service district.

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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—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. 377) 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 2012, Relating to public charter schools.

On third reading, coming up in regular order, with the right having been granted on Friday, February 26, 2021, for other amendments to be received on third reading, was reported by the Clerk.

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

On page nine, section five, lines nineteen through twenty-six, by striking out all of subsection (b) and inserting in lieu thereof a new subsection (b), to read as follows:

(b) The state board shall promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code to ensure that the accountability of public charter schools meet the standards for student performance required of other public school students under §18-2E-5 of this code and the accountability of authorizers for ensuring that those standards are met in the schools authorized by it. If an authorizer fails to close a public charter school that does not meet the standards, the authorizer shall appear before the state board to justify its decision. The state board may uphold or overturn the authorizer's decision and may revoke the authority of the authorizer to authorize public charter schools.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill (Eng. Com. Sub. for H. B. 2012), and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, Unger, and Woelfel—10.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

Absent: Stover—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano's amendment to the bill rejected.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2012), as amended on Friday, February 26, 2021, was then read a third time and put upon its passage.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2012 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Woodrum, and Blair (Mr. President)—19.

The nays were: Baldwin, Beach, Caputo, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, Weld, and Woelfel—14.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2012) passed.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 2012—A Bill to amend and reenact §18-5G-1, §18-5G-2, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-9, §18-5G-10, and §18-5G-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §18-5G-13, §18-5G-14, and §18-5G-15, all relating to public charter schools; amending provisions pertaining to the number of public charter schools that may be authorized; requiring the Legislative Auditor to conduct an audit of the public charter school program two years after the first public charter school commences operations; amending process applicable when an applicant applies to two or more county boards to authorize a public charter school; allowing the West Virginia Professional Charter School Board to authorize public charter schools; clarifying that an education service provider can be public or private and nonprofit or for-profit; defining “full-time virtual public charter school” and “West Virginia Professional Charter School Board”; amending provisions pertaining to revocation of a charter contract; amending timeline for charter school application and beginning operations; requiring public charter schools to be treated and act as their own local education agency for all purposes; specifying exception; prohibiting anything in certain State Board of Education rule from conflicting with code; setting deadline for certain State Board of Education rules; amending provisions pertaining to the charter contract; amending provisions pertaining to the renewal of a charter contract; creating a process by which to appeal certain authorizer decisions to the West Virginia Board of Education; setting forth parameters under which the Professional Charter School board and county boards may authorize a limited number of virtual public charter schools; addressing virtual public charter school enrollment limits, charter term, funding, enrollment of students who may require special education services, governing body training, student absence, instructional time requirements, requirements that are applicable to the traditional deliver of instruction, student orientation, data demonstrating progress toward graduation, requirements relating to student engagement and teacher responsiveness, a policy regarding failure to participate in instructional activities, educational placement upon student transfer, virtual charter schools enrolling students in grades six and below, and application of requirements to certain other virtual instructional program; establishing the West Virginia Professional Charter School Board; providing for members, appointments, removal, immunity from civil liability in certain instances, appointment of executive director, employment of staff, and reimbursement of certain expenses; limiting how official actions of nonvoting ex officio members may be construed; requiring the Professional Charter School Board to investigate certain complaints and allowing it to conduct or cause to be conducted certain audits; and making technical improvements and corrections.

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

Eng. House Bill 2262, Relating to the controlled substance monitoring database.

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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2262) 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, Relating to claims arising out of WV Consumer Credit and Protection 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 160, Authorizing Department of Revenue to promulgate legislative rules.

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

Senate Bill 248, Requiring DHHR collaborate with Workforce Development Board and WV Division of Personnel for purposes of job placement.

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

Senate Bill 311, Relating to acquisition and disposition of property by urban development authority.

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

Senate Bill 359, Informing landowners when fencing that may contain livestock is damaged due to accident.

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 368, Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program.

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 389, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency.

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

On motions of Senators Jeffries and Swope, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section two, line twenty-two, after the word "Senate," by inserting the words "one from each party,";

And,

On page two, section two, line twenty-three, after the word "Delegates," by inserting the words "one from each party,".

The bill (Com. Sub. for S. B. 389), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 392, Creating penalty for impersonating law-enforcement officer or official.

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

Senate Joint Resolution 4, Incorporation of Churches or Religious Denominations Amendment.

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

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Senate Bill 102, Allowing disabled veterans and purple heart recipients park free at paid parking of state or its political subdivisions.

Com. Sub. for Senate Bill 356, Allowing for written part of drivers' exam given in high school drivers' education course.

And,

Com. Sub. for Senate Bill 387, Relating to drug screening of applicants for cash assistance.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Roberts, Tarr, Unger, and Weld.

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

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 removed as co-sponsors of the following bill and resolution on February 26, 2021:

Senate Bill 8: Senator Grady;

And,

Senate Joint Resolution 10: Senator Woelfel.

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 February 26, 2021:

Senate Bill 18: Senator Stollings;

Senate Bill 19: Senator Stollings;

Senate Bill 22: Senator Stollings;

Senate Bill 73: Senator Stollings;

Senate Bill 231: Senator Woelfel;

Senate Bill 261: Senator Woelfel;

Senate Bill 309: Senator Woelfel;

Senate Bill 332: Senator Woodrum;

Senate Bill 361: Senators Lindsay and Azinger;

Senate Bill 365: Senator Azinger;

Senate Bill 378: Senator Lindsay;

Senate Bill 394: Senator Lindsay;

Senate Bill 404: Senator Lindsay;

Senate Bill 410: Senator Lindsay;

Senate Bill 415: Senator Lindsay;

Senate Bill 434: Senator Grady;

Senate Bill 445: Senator Grady;

Senate Bill 450: Senator Lindsay;

Senate Bill 460: Senators Phillips and Stollings;

Senate Bill 462: Senator Stollings;

Senate Bill 464: Senators Beach, Woelfel, and Stollings;

Senate Bill 465: Senators Weld and Stollings;

Senate Bill 467: Senators Phillips and Stollings;

Senate Bill 469: Senator Stollings;

Senate Bill 470: Senators Ihlenfeld, Rucker, Lindsay, and Caputo;

Senate Bill 473: Senator Rucker;

Senate Bill 474: Senators Swope, Stollings, and Roberts;

Senate Bill 476: Senators Lindsay and Caputo;

Senate Joint Resolution 8: Senator Azinger;

And,

Senate Concurrent Resolution 5: Senator Azinger.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:44 p.m., the Senate adjourned until tomorrow, Tuesday, March 2, 2021, at 11 a.m.

SENATE CALENDAR

**Tuesday, March 02, 2021
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 10 - Calling Article V convention proposing term limits

THIRD READING

Eng. Com. Sub. for S. B. 5 - Relating to claims arising out of WV Consumer Credit and Protection Act

Eng. Com. Sub. for S. B. 160 - Authorizing Department of Revenue to promulgate legislative rules (original similar to HB2405)

Eng. S. B. 248 - Requiring DHHR collaborate with Workforce Development Board and WV Division of Personnel for purposes of job placement

Eng. S. B. 311 - Relating to acquisition and disposition of property by urban development authority

Eng. S. B. 359 - Informing landowners when fencing that may contain livestock is damaged due to accident

Eng. Com. Sub. for S. B. 368 - Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program

Eng. Com. Sub. for S. B. 389 - Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency (original similar to HB2683)

Eng. Com. Sub. for S. B. 392 - Creating penalty for impersonating law-enforcement officer or official

Eng. S. J. R. 4 - Incorporation of Churches or Religious Denominations Amendment

SECOND READING

Com. Sub. for S. B. 102 - Allowing disabled veterans and purple heart recipients park free at paid parking of state or its political subdivisions

Com. Sub. for S. B. 356 - Allowing for written part of drivers' exam given in high school drivers' education course

Com. Sub. for S. B. 387 - Relating to drug screening of applicants for cash assistance

FIRST READING

Com. Sub. for S. B. 263 - Permitting online raffles to benefit charitable and public service organizations

Com. Sub. for S. B. 332 - Providing procedure for WV to select delegates to Article V Convention

Com. Sub. for S. B. 345 - Expanding alcohol test and lock program to include offenders with drug-related offense (original similar to HB2741)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2021

Tuesday, March 2, 2021

10 a.m.

Transportation & Infrastructure

(Room 451M)