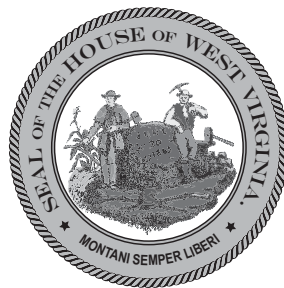


West Virginia Legislature

**JOURNAL**  
of the  
**HOUSE of DELEGATES**

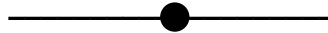
Eighty-Fifth Legislature  
Third Extraordinary Session

Held at Charleston  
Published by the Clerk of the House



July 28, 2022  
**FOURTH DAY**





Thursday, July 28, 2022

#### FOURTH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Wednesday, July 27, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At 12:46 p.m., on motion of Delegate Kessinger, the House of Delegates recessed until 2:00 p.m.

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#### Afternoon Session

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The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

#### Committee Reports

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**H. B. 304**, To promote family health,

And reports back a committee substitute therefor, as follows:

**Com. Sub. for H. B. 304** - "A Bill to amend the Code of West Virginia, 1931, by adding thereto a new section, designated §5-16-7h; to amend and reenact §11-21-10a and §11-21-16 of said code; to amend said code by adding there a new section, designated §16-5K-7; to amend and reenact §16-58-3, §16-58-4, and §16-58-6 of said code; to amend said code by adding thereto a new section, designated §16-58-7; to amend said code by adding thereto a three new sections, designated §16-63-1, §16-63-2, and §16-63-3; to amend said code by adding thereto a new section, designated §33-15-4x; to amend said code by adding thereto a new section, designated §33-16-3ww; to amend said code by adding thereto a new section, designated §33-24-7x; to amend said code by adding thereto a new section, designated §33-25-8u; to amend said code by adding thereto a new section, designated §33-25A-8x; to amend and reenact §48-11-101 of said code; to amend and reenact §49-4-405, §49-4-406 and §49-4-601 of said code; and to amend and reenact §49-5-101 of said code, all relating to children,"

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Kessinger, and by unanimous consent, the bill (Com. Sub. for H. B. 304) was taken up for immediate consideration, read a first time and ordered to second reading.

### Special Calendar

#### Third Reading

**H. B. 301**, Relating to reducing the personal income tax; on third reading, coming up in regular order, with amendments pending and the right to amend, was reported by the Clerk.

Delegate Rowe asked for a ruling from the Chair as to whether amendments would be appropriate on this bill based on the Governor's call for the extraordinary session.

The Speaker replied that amendments would be entertained.

Delegate Linville moved to postpone consideration of the bill one day.

Delegate Hardy moved to table the motion.

The Speaker replied that the motion itself cannot be tabled.

On the question of the motion to postpone consideration of the bill one day, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 754**), and there were—yeas 4, nays 78, absent and not voting 18, with the yeas and the absent and not voting being as follows:

Yeas: Barrett, Hanna, Jennings and Linville.

Absent and Not Voting: Barach, Bates, Brown, Doyle, Ellington, Espinosa, Evans, Forsht, Foster, Graves, Lovejoy, Maynard, McGeehan, Reed, Rohrbach, Summers, Williams and Worrell.

So, a majority of the members present not having voted in the affirmative, the motion was rejected.

The following amendment, offered by Delegates Skaff, Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Pethtel, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff, was reported by the Clerk, on page 1, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof, the following:

#### **“§11-21-4e. Rate of tax — Taxable years beginning on or after January 1, 1987.**

(a) Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, estates and trusts. — The tax imposed by section three of this article on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust shall be determined in accordance with the following table:

If the West Virginia taxable income is:	The tax is:
Not over \$10,000	3% of the taxable income
Over \$10,000 but not over \$25,000	\$300.00 plus 4% of excess over \$10,000
Over \$25,000 but not over \$40,000	\$900.00 plus 4.5% of excess over \$25,000
Over \$40,000 but not over \$60,000	\$1,575.00 plus 6% of excess over \$40,000
Over \$60,000	\$2,775.00 plus 6.5% of excess over \$60,000

(b) Rate of tax on married individuals filing separate returns. — In the case of husband and wife filing separate returns under this article for the taxable year, the tax imposed by section three of this article on the West Virginia taxable income of each spouse shall be determined in accordance with the following table:

If the West Virginia taxable income is:	The tax is:
Not over \$5,000	3% of the taxable income
Over \$5,000 but not over \$12,500	\$150.00 plus 4% of excess over \$5,000
Over \$12,500 but not over \$20,000	\$450.00 plus 4.5% of excess over \$12,500
Over \$20,000 but not over \$30,000	\$787.50 plus 6% of excess over \$20,000
Over \$30,000	\$1,387.50 plus 6.5% of excess over \$30,000

(c) Applicability of this section. — The provisions of this section, as amended by this act, shall be applicable in determining the rate of tax imposed by this article for all taxable years beginning after December 31, 1986, and shall be in lieu of the rates of tax specified in section four-d of this article.

(f) Each state resident who filed a state tax return or paid taxes for the 2021 tax year shall be entitled to a one-time rebate on personal income tax of \$250.00. The state Tax Commissioner shall provide a rebate by September 1, 2022. If the amount of the rebate allowed exceeds the taxpayer's personal income tax liability, the commissioner shall treat the excess as an overpayment and shall pay the taxpayer the amount of the excess, without interest."

Delegate Young moved to amend the amendment on page 2, section 4e, following the period at the end of subsection (f), by adding a new subsection, designated subsection (g) to read as follows:

“(g) Effective for the tax year 2022 and each tax year thereafter, when the state has an excess of revenues over the amount budgeted by the Legislature for that tax year in an amount of \$1 billion dollars or more, as certified by the Secretary of the Department of Revenue, then the provisions of subsection (h) of this section are triggered and the personal income tax rebates of that subsection apply for that tax year.”

On the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 755**), and there were— yeas 16, nays 66, absent and not voting 18, with the yeas and the absent and not voting being as follows:

Yeas: Boggs, Diserio, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Young and Zukoff.

Absent and Not Voting: Barach, Bates, Brown, Doyle, Ellington, Espinosa, Evans, Forsht, Foster, Graves, Lovejoy, Maynard, McGeehan, Reed, Rohrbach, Summers, Williams and Worrell.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

The question then being on adoption of the amendment offered by Delegates Skaff, Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Pethtel, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 756**), and there were— yeas 16, nays 66, absent and not voting 18, with the yeas and the absent and not voting being as follows:

Yeas: Boggs, Diserio, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Young and Zukoff.

Absent and Not Voting: Barach, Bates, Brown, Doyle, Ellington, Espinosa, Evans, Forsht, Foster, Graves, Lovejoy, Maynard, McGeehan, Reed, Rohrbach, Summers, Williams and Worrell.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegates Rowe, Griffith and Zukoff moved to amend the bill on page 2, section 4g, line 34, by striking out the period at the end of subsection (d) and inserting a colon and the following proviso:

“*Provided*, That for the fiscal year 2021 only, the amount of the reduction of personal income taxes provided by this section from the taxable amounts contained in Section 4e of this article shall be half of the amount of reduction provided for in this section.”

During debate on the amendment, Delegate Fleischauer was addressing the House when Delegate Howell arose to inquire of the Chair, regarding the content of the Lady's remarks not pertaining to the amendment before the House.

The Speaker indicated the point was well taken but responded to inquiry by Delegate Garcia that discussion and debate regarding how resources might be used would be allowed.

On the adoption of the amendment, the yeas and nays were demanded, which request was subsequently withdrawn by Delegate Rowe.

The question then being on adoption of the amendment, the same was put and did not prevail.

Delegate Rowe moved to amend the bill on page 1, section 4g, line 15, by striking out the number "5.98%" and inserting in lieu thereof, the number "6.5%";

And,

On page 2, section 4g, line 26, by striking out the number "5.98%" and inserting in lieu thereof, the number "6.5%".

The question being on adoption of the amendment, the same was put and did not prevail.

An amendment offered by Delegates Doyle, Hansen and Fleischauer was reported by the Clerk.

Whereupon,

Delegate Fleischauer asked and obtained unanimous consent that the amendment be withdrawn.

There being no further amendments, and having been engrossed, the bill was read a third time.

Delegate Kimes moved to refer the bill to the Committee on Government Organization.

Delegate Martin moved the previous question, which demand was not sustained.

On the motion to refer, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 757**), and there were—yeas 10, nays 71, absent and not voting 19, with the yeas and the absent and not voting being as follows:

Yeas: Diserio, Fluharty, Hansen, Hornbuckle, Jennings, Kimes, Pushkin, Steele, Walker and Young.

Absent and Not Voting: Barach, Bates, Brown, Doyle, Ellington, Espinosa, Evans, Forsht, Foster, Graves, Lovejoy, Maynard, McGeehan, Reed, Rohrbach, Summers, Westfall, Williams and Worrell.

So, a majority of the members present not having voted in the affirmative, the motion did not prevail.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 758**), and there were, including pairs--yeas 78, nays 7, absent and not voting 15, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Espinosa      Nay: Rowe

Yea: Brown        Nay: Hansen

Yea: Forsht        Nay: Doyle

Nays: Fleischauer, Garcia, Pushkin and Walker.

Absent and Not Voting: Barach, Bates, Ellington, Evans, Foster, Graves, Lovejoy, Maynard, McGeehan, Reed, Rohrbach, Summers, Westfall, Williams and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 301) passed.

Delegate Kessinger moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 759**), and there were—yeas 78, nays 3, absent and not voting 19, with the nays and the absent and not voting being as follows:

Nays: Fleischauer, Hansen and Walker.

Absent and Not Voting: Barach, Bates, Brown, Doyle, Ellington, Espinosa, Evans, Forsht, Foster, Graves, Lovejoy, Maynard, McGeehan, Reed, Rohrbach, Summers, Westfall, Williams and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 301) takes effect from its passage.

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

### **Second Reading**

**S. B. 3001**, Relating to family planning services; on second reading, coming up in regular order, was read a second time.

Delegate Kessinger moved that the bill be advanced to third reading with amendments pending and the right to amend.

Unanimous consent having been obtained, the bill was advanced to third reading with amendments pending and the right to amend and the rule was suspended to permit the consideration of amendments on that reading.



**Leaves of Absence**

Unanimous consent having been obtained, leaves of absence were granted to all members not present on today.

At 3:32 p.m., the House of Delegates adjourned until 2:00 p.m., Friday, July 29, 2022.

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**HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
Building 1, Room M-212  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0470**

**SPECIAL CALENDAR**

**Friday, July 29, 2022**

**5<sup>th</sup> Day**

**2:00 P. M.**

**THIRD READING**

S. B. 3001 - Relating to family planning services [AMENDMENTS PENDING]  
[RIGHT TO AMEND] (JULY 1, 2023)

**SECOND READING**

Com. Sub. for H. B. 304 - To promote family health (HOUSEHOLDER)

**HOUSE CALENDAR**

**Friday, July 29, 2022**

**5th Day**

**2:00 P. M.**

**(No Bills)**



**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**FRIDAY, JULY 29, 2022**

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**HOUSE CONVENES AT 2:00 P.M.**





HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
Building 1, Room M-212  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0470