

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2022
THIRTY-EIGHTH DAY

Charleston, West Virginia, Friday, February 18, 2022

The Senate met at 9:03 a.m.

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

Prayer was offered by the Honorable Michael T. Azinger, a senator from the third 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 Thursday, February 17, 2022,

At the request of Senator Tarr, 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 communications from various state agencies as required by the provisions of law:

Environmental Protection, Department of (Special Reclamation Fund Advisory Council) (§22-1-17)

Ethics Commission (Advisory Opinions) (§6B-2-3)

Senior Services, Bureau of (§16-5P-14)

Tax Appeals, Office of (§11-10A-7)

The Senate proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 4025—A Bill to amend and reenact §11-13A-3c of the Code of West Virginia, 1931, as amended, relating to the imposition of the tax on the privilege of

severing other natural resources; providing for an exemption from the imposition of the severance tax for a period of 5 years beginning on July 1, 2022, for severing rare earth elements and critical minerals; and defining rare earth elements and critical minerals.

Referred 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 4329—A Bill to amend and reenact §44-1-28, §44-1A-1, §44-1A-2, and §44-1A-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Small Estate Act; updating definitions; adding a definition of the term "interested person" for purposes of identifying those who have a property right in or a claim against the estate of a decedent or property; and clarifying treatment of real estate of decedents in small estates.

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. Com. Sub. for House Bill 4562—A Bill to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating generally to the suspension and dismissal of school personnel by board and the appeals process.

Referred to the Committee on Education.

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

Eng. House Bill 4578—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-56, relating to authorizing the superintendent to administer the Handle with Care program.

Referred to the Committee on the Judiciary.

Executive Communications

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

February 18, 2022

The Honorable Lee Cassis, Clerk
West Virginia Senate
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Senate Bill No. Four Hundred Thirty-Six (436), which was presented to me on February 14, 2022.

You will note that I have approved this bill on February 18, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 17th day of February, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 4024), Creating a cosmetology apprentice program that allows companies to train employees for practical real-world experience.

(Com. Sub. for H. B. 4067), To make certain agency reports electronic or eliminating certain agency reports altogether.

And,

(Com. Sub. for H. B. 4276), WVU to create a Parkinson's disease registry.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.

Dean Jeffries,
Chair, House Committee.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 64, Allowing county commissions to impose amusement tax.

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

Com. Sub. for Senate Bill 64 (originating in the Committee on Government Organization)—
A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3uu, relating to allowing county commissions to impose an amusement tax.

And,

Senate Bill 553, Relating to powers of WV Health Care Authority.

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

Com. Sub. for Senate Bill 553 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §16-29B-8, §16-29B-24, and §16-29B-25 of the Code of West Virginia, 1931, as amended, all relating to the powers of the West Virginia Health Care Authority; removing authority to adopt, amend, and repeal policy guidelines; making technical changes; requiring legislative rulemaking regarding the Uniform Bill; permitting fees for custom data request; and requiring the Secretary of the Department of Health and Human Resources to give notice and file legislative rules when assuming the West Virginia Health Care Authority's data repository powers and duties.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Committee Substitute for Senate Bill 64, under the original double committee reference, was then referred to the Committee on Finance.

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of Committee Substitute for Senate Bill 553 contained in the foregoing report from the Committee on Government Organization.

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 230, Relating generally to public employees grievance procedure.

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

Com. Sub. for Senate Bill 230 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §6C-2-1, §6C-2-2, §6C-2-3, §6C-2-4, and §6C-2-6 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia public employees grievance procedure; defining terms; providing that Division of Personnel may not be a party in certain circumstances; clarifying actions by an agency taken during a declared state of preparedness or emergency or any matter relating to protected classes are not grievable; requiring a notarized grievance form and providing for multiple grievants; providing a grievance must be filed within the time limits specified or it may be dismissed; extending certain time limits; providing for appeal for grievances dismissed for timeliness or lack of jurisdiction; providing the grievance evaluator and the administrative law judge must hold all other proceedings in abeyance until a ruling on motion to dismiss; clarifying that grievances may be consolidated as long as the initial grievance has not been dismissed; providing that proceedings may be rescheduled for good cause shown; requiring grievant representatives provide the names and work location of employees being represented; requiring that employees provide the name and contact information of his or her representative; requiring Division of Personnel receive copies of grievance in certain cases; providing a prevailing party at level three may recover attorney's fees and costs not to exceed \$1,000; and authorizing an administrative law judge to award attorney's fees and costs based on certain findings.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 456, Requiring county boards of education to develop seizure action plans.

And reports the same back without recommendation as to passage; but under the original double committee reference first be referred to the Committee on Education.

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Education.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill 467, Creating WV Motorsports Entertainment Complex Investment Act.

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

Com. Sub. for Senate Bill 467 (originating in the Committee on Economic Development)—
A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-29-1, §11-29-2, §11-29-3, §11-29-4, §11-29-5, and §11-29-6, all relating to establishing the West Virginia Motorsports Entertainment Complex Investment Act; providing legislative findings; defining terms; creating tax exemption; granting rulemaking authority; and providing effective date.

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,

Chandler Swope,
Chair.

The bill (Com. Sub. for S. B. 467), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 470, Relating generally to health care decisions.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
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 556, Removing outdated reference to federal officers' peace-keeping authority.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 586, Relating to athletic eligibility of transfer students.

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

Com. Sub. for Senate Bill 586 (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25e, relating to allowing students to transfer schools and retain his or her athletic eligibility one time during a student's four years of secondary school.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 619, Relating to rulemaking for unidentified and unclaimed remains in possession of Chief Medical Examiner.

Senate Bill 639, Providing 45-day waiting period on rate increases when water and sewer services are purchased from municipality.

And,

Senate Bill 640, Eliminating requirement of PSC to send certain recommended decisions by certified mail.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

The Senate again proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

Senate Bill 628, Supplementing and amending appropriations to Department of Commerce, DNR.

Senate Bill 629, Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division.

Senate Bill 630, Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account.

Senate Bill 633, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund.

Senate Bill 636, Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals.

And,

Senate Bill 637, Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent Fund.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Swope, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill 643, Removing residency requirement of members appointed to county airport authority.

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

Com. Sub. for Senate Bill 643 (originating in the Committee on Economic Development)—A Bill to amend and reenact §8-29A-2 of the Code of West Virginia, 1931, as amended, relating to removing the residency requirement of some members appointed to a county airport authority

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,
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 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants.

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

Com. Sub. for Senate Bill 650 (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §37B-1-4 of the Code of West Virginia, 1931, as amended, relating to amending the number of royalty owners required for utilization by an operator for the lawful use and development by cotenants; and correcting the format of some phrases.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Randy E. Smith,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 651, Allowing county BOE participating in operation of multicounty vocational center to withdraw.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4111, Relating to the prescriptive authority of advance practice registered nurses.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Health and Human Resources pending.

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 Trump:

Senate Bill 671—A Bill to amend and reenact §17A-6F-1, §17A-6F-2, §17A-6F-3, §17A-6F-5, §17A-6F-7, §17A-6F-13, and §17A-6F-15 of the Code of West Virginia, 1931, as amended, all relating to modernizing the regulation of peer-to-peer car-sharing services in West Virginia.

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

By Senator Weld:

Senate Bill 672—A Bill to amend and reenact §18B-10-7 of the Code of West Virginia, 1931, as amended, relating to exempting certain military veterans and their dependents from the payment of tuition and fees.

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

By Senator Karnes:

Senate Bill 673—A Bill to amend and reenact §11-13DD-3 of the Code of West Virginia, 1931, as amended, relating to the Farm-to-Food Bank Tax Credit; raising the limit on the tax credit from \$2,500 to \$5,000; and providing that the credit apply retroactively to January 1, 2022.

Referred to the Committee on Finance.

By Senator Roberts:

Senate Bill 674—A Bill to amend and reenact §16A-7-4 of the Code of West Virginia, 1931, as amended, relating to providing for no more than two licensed laboratories for medical cannabis testing in this state.

Referred to the Committee on Health and Human Resources.

By Senator Trump:

Senate Bill 675—A Bill to amend and reenact §57-5-7 of the Code of West Virginia, 1931, as amended, relating to requiring the Director of the Administrative Office of the Supreme Court of Appeals to establish a program to certify interpreters.

Referred to the Committee on the Judiciary.

By Senator Roberts:

Senate Bill 676—A Bill to amend and reenact §18A-4-10 of the Code of West Virginia, 1931, as amended, relating to the \$500 bonus for a classroom teacher who has not used more than four days of personal leave during the employment term; allowing a teacher who uses personal leave to avoid working on a day or days because working that day or those days would conflict with the teacher's sincerely held religious beliefs to apply to exclude the use of one or more personal leave days from the four-day limit when determining the teacher's eligibility for the \$500 bonus; and providing that a person filing a false affidavit stating that his or her working on that day or those days conflicts with his or her sincerely held religious beliefs and that he or she will not or did not perform any other work for remuneration on that day is subject to the penalty for false swearing.

Referred to the Committee on Education.

By Senator Stollings:

Senate Bill 677—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-30; and to amend and reenact §11-19-2 of said code, all relating to funding for supplementing Public Employees Insurance Agency reimbursements up to the Medicare rate; creating Public Employee Insurance Agency Supplemental Reimbursement Fund; providing for the administration of the fund, sources of funding for the fund, requiring the director to promulgate any necessary rules, and requiring an annual report by the Director to the Joint Committee on Government and Finance; modifying the direction of proceeds of the soda tax into special PEIA supplemental fund; and providing for effective dates.

Referred to the Committee on Finance.

By Senator Phillips:

Senate Bill 678—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, §11-13MM-10, and §11-13MM-11, all relating to establishing a road or highway infrastructure improvement projects or coal production and processing facilities tax credit for taxpayers subject to the tax imposed by §11-13a-3 of this code; specifying a short title; specifying legislative findings and purpose for new credit; defining terms; specifying the amount of the credit, application of credit, and carry forward of unused credit; requiring filing of application for road or highway infrastructure improvement project credit as condition precedent to claiming credit; specifying procedure for application for certification, contents of application and limitation on maximum amount of credits which can be approved; specifying computation of qualified investment in coal production and processing facilities; allowing transfer of credits to successors; providing for forfeiture of unused tax credits and redetermination of credit allowed; providing penalties for failure to maintain records of qualified property; and establishing an effective date.

Referred to the Committee on Finance.

By Senators Woodrum, Grady, Phillips, Roberts, Stover, and Sypolt:

Senate Bill 679—A Bill to amend and reenact §17B-3-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding a new section, designated §17B-3-14, all relating to requiring notice to be given to the Commissioner of the Division of Motor Vehicles by health care providers or law-enforcement officers when there is reasonable cause to believe that a licensee may be incapable of operating a motor vehicle safely and initiating an investigation of the licensee's condition; mandating reports by health care providers; requiring sworn statement to be filed by a law-enforcement officer upon probable cause; requesting the licensee to submit to a physician's examination; providing for closure if no probable cause is found; mandating a suspension of the license in certain circumstances; requiring for notice to the licensee; providing for a hearing to be conducted; and mandating confidentiality of all statements, reports, recommendations, opinions, or findings.

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

By Senator Trump:

Senate Bill 680—A Bill to amend and reenact §5H-1-2 and §5H-1-3 of the Code of West Virginia, 1931, as amended, all relating to adding Division of Corrections and Rehabilitation employees working at institutions managed by the commissioner to the Survivor Benefits Act; defining the qualifying acts for eligibility for payment of survivor benefits for Division of Corrections and Rehabilitation personnel to include, but not be limited to, training functions, administrative meetings, corrections or parole incidents or activities, interactions with inmates, former inmates, inmates or former inmates' family or associates, parolees, former parolees, former parolees' family or associates, and travel to or from any of these activities; and creating a retroactive effective date of March 14, 2020.

Referred to the Committee on Finance.

By Senator Maynard:

Senate Bill 681—A Bill to repeal §30-40-27 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-40-3, §30-40-4, §30-40-5, §30-40-9, §30-40-11, §30-40-12, §30-40-13, §30-40-14, §30-40-15, §30-40-16, §30-40-17, §30-40-18, §30-40-19, §30-40-20, §30-40-21, §30-40-22, §30-40-25, and §30-40-26, all relating generally to revisions in the West Virginia Real License Act.

Referred to the Committee on Government Organization.

By Senator Maynard:

Senate Bill 682—A Bill to amend and reenact §5B-1A-9 of the Code of West Virginia, 1931, as amended, relating to limiting the liability of persons making land available for public trail use; and specifically adding railroad companies as property owners covered by the limitation.

Referred to the Committee on the Judiciary.

By Senator Azinger:

Senate Bill 683—A Bill to amend and reenact §46A-4-110 of the Code of West Virginia, 1931, as amended, relating to permit regulated consumer lenders may conduct business other than making loans provided that such subject be to the approval by the commissioner for the Division of Financial Institutions.

Referred to the Committee on Banking and Insurance.

By Senator Maynard:

Senate Bill 684—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act of 2022; prohibiting the removal, renaming, alteration, or relocation of any statue, monument, memorial, nameplate, plaque, school, street, bridge, building, park, preserve, or reserve recognized by the West Virginia State Historic Preservation Office and which is located on public property and has been erected for, named, or dedicated in honor of, certain historical, military, labor, civil rights, and Native-American events, figures, and organizations; prohibiting any person from preventing the governmental entity having responsibility for maintaining the items, structures, or areas from taking proper measures to protect, preserve, care for, repair, or restore the items, structures, or areas recognized by the West Virginia State Historic Preservation Office; and authorizing the West Virginia State Historic Preservation Office to grant waivers under certain circumstances.

Referred to the Committee on the Judiciary.

Senator Woelfel offered the following resolution:

Senate Concurrent Resolution 49—Urging the Adjutant General to establish an Honor Guard in each National Guard unit to provide military funeral honors to honorably discharged veterans in West Virginia.

Whereas, Per capita, more citizens from West Virginia have served in our nation's armed forces than from any other state and we are proud of our citizens who, despite danger, have done what they must for peace and freedom; and

Whereas, Providing military funeral honors is one of the last ways to honor those who served; and

Whereas, Military funeral honors are normally provided by the veterans' organization of the state, however, because of the limited number of members and the age of the veterans available, there are many communities unable to provide these services; and

Whereas, With the West Virginia National Guard having some 6,000 members, there should be a designated Honor Guard trained and made available to provide military funeral honors when requested by the family or funeral director, assuring that no West Virginia veteran would be denied their proper honors; and

Whereas, It is always important that we honor the many brave West Virginians who have faced the enemy, been wounded, and have given their lives not only for our freedom but for freedom around the world; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature urges the Adjutant General to establish an Honor Guard in each National Guard unit to provide military funeral honors to honorably discharged veterans in West Virginia; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Honorable Jim Justice, Governor of the State of West Virginia, and to BG William E. Crane.

Which, under the rules, lies over one day.

Senator Smith offered the following resolution:

Senate Resolution 31—Designating February 21, 2022, as Pancreatic Cancer Awareness Day.

Whereas, In 2022, an estimated 62,210 people will be diagnosed with pancreatic cancer in the United States, which equates to 170 people every day; and

Whereas, Pancreatic cancer is one of the deadliest cancers and is currently the third leading cause of cancer death in the United States. It is projected to become the second leading cause within the next decade. This cancer has a five-year relative survival rate of only 11 percent; and

Whereas, When symptoms of pancreatic cancer present themselves, it is generally in later stages and 73 percent of pancreatic cancer patients die within the first year of their diagnosis while 89 percent of pancreatic cancer patients die within the first five years; and

Whereas, Approximately 350 deaths will occur in West Virginia in 2022. This is the same disease which claimed the life of former West Virginia Governor William Marland, actor Patrick Swayze, the Queen of Soul, Aretha Franklin, former WVU and Florida State Football Coach Bobby Bowden, and Jeopardy host Alex Trebek, just to name a few; and

Whereas, Pancreatic cancer is the seventh most common cause of cancer-related deaths across the world; and

Whereas, While overall cancer incidences and cancer death rates are declining, pancreatic cancer and death rates for its patients has been increasing. The number of new pancreatic cancer incidences is projected to increase by 55 percent between now and 2030; and

Whereas, The good health and well-being of the residents of West Virginia are enhanced as a direct result of increased awareness about the symptoms, risk factors, research of early detection, causes, and effective treatments; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 21, 2022, as Pancreatic Cancer Awareness Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Pancreatic Cancer Awareness Day.

Which, under the rules, lies over one day.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the fourth order of business.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 685 (originating in the Committee on Government Organization)—A Bill to repeal §30-40-27 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-40-3, §30-40-4, §30-40-5, §30-40-9, §30-40-11, §30-40-12, §30-40-13, §30-40-14, §30-40-15, §30-40-16, §30-40-17, §30-40-18, §30-40-19, §30-40-20, §30-40-21, §30-40-22, §30-40-25, and §30-40-26, all relating generally to West Virginia Real Estate License Act; amending definitions; permitting a salesperson to designate an entity to receive compensation; modifying the applicability of the article; requiring certain fees to be deposited into the treasury of the state daily; eliminating requirements for certain information to be included on applications for licensure; modifying requirements for an application for a broker's license; providing restrictions on the entities that may be issued a salesperson's license; clarifying and amending requirements for prelicense education; modifying requirements for licensing based on licensure in another jurisdiction; modifying continuing education requirements; eliminating certain requirements for persons holding a broker's license; modifying requirements for license certificates issued by Real Estate Commission; requiring a licensed broker to reconcile trust accounts; eliminating a prohibition on financial institutions that maintain trust accounts from requiring a certain minimum balance; clarifying language related to when commission may refuse a license or revoke, suspend, or impose any other sanction against a licensee; modifying the procedure for commission to administer complaints; eliminating right of judicial review for a person adversely affected by a decision or final order of the commission; clarifying language; clarifying language regarding criminal penalties; clarifying language related to suits for collection of compensation; requiring licensees to disclose in writing whether the licensee represents the seller, the buyer, the seller and the buyer, the landlord, the tenant, or the landlord and the tenant; and repealing an outdated section of code governing the duration of existing licenses.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 48, US Army PFC Ronald Lee Berry Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 213, Establishing licensed professional counseling compact.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 17, 2022, for amendments to be received on third reading, was read a third time.

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

On page twenty-seven, section fifteen, line seven, after the word "conflict" by changing the period to a colon and inserting the following proviso: *Provided*, That any rule or bylaw promulgated by the Counseling Compact Commission shall not alter, amend, abolish, or contravene, the scope of practice or standard of care in the state of West Virginia for licensed professional counselors.

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

Engrossed Senate Bill 213 was then put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 213) 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 Com. Sub. for Senate Bill 247, Relating to certified community behavioral health clinics.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 247) 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 268, Creating exemption from compulsory school attendance for child who participates in learning pod or micro school.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 17, 2022, for amendments to be received on third reading, was read a third time.

On motions of Senators Trump and Rucker, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page seven, section one, line 159, after the word "together", by inserting the words "in a group of up to 100 students";

On page eight, section one, line 162, after the word "school", by inserting the words "of up to 100 students";

And,

On page eight, section one, line 163, after the word "school", by inserting the words "of up to 100 students".

Following discussion,

The question being on the adoption of the amendments offered by Senators Trump and Rucker to the bill, the same was put and prevailed.

On motion of Senator Baldwin, the following amendment to the bill (Eng. Com. Sub. for S. B. 268) was next reported by the Clerk:

On page ten, section one, lines two hundred twenty-five and two hundred twenty-six, by striking out all of subdivision (8), and inserting in lieu thereof a new subdivision (8), to read as follows:

(8) Learning pods and microschoools are subject to and required to adhere to the provisions of article twenty-eight, chapter eighteen.

Following discussion,

The question being on the adoption of Senator Baldwin's amendment to the bill, and on this question, Senator Baldwin demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Jeffries, Lindsay, Plymale, Romano, Stollings, Stover, and Woelfel—13.

The nays were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—21.

Absent: None.

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

On motion of Senator Romano, the following amendment to the bill (Eng. Com. Sub. for S. B. 268) was next reported by the Clerk:

On page ten, section one, line two hundred twenty-six, after the word "education" by changing the period to a colon and adding the following proviso: *Provided*, That any learning pod or microschoo which has a student requiring special education instruction must comply with the provisions of section eleven, article twenty, chapter eighteen of this code, including, but not limited to, placement of video cameras for the protection of that exceptional student.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Brown, Caputo, Clements, Geffert, Hamilton, Jeffries, Lindsay, Maroney, Nelson, Plymale, Romano, Stollings, Stover, Takubo, Trump, Weld, and Woelfel—19.

The nays were: Azinger, Boley, Grady, Karnes, Martin, Maynard, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Tarr, Woodrum, and Blair (Mr. President)—15.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Romano's amendment to the bill adopted.

On motion of Senator Karnes, the following amendment to the bill (Eng. Com. Sub. for S. B. 268) was next reported by the Clerk:

On page ten, section one, lines two hundred sixteen through two hundred eighteen, by striking out all of subdivision (6) and inserting in lieu thereof a new subdivision (6), to read as follows:

(6) The parent, legal guardian, learning pod, or microschoo shall submit to the county superintendent the results of the academic assessment of the child with the same frequency prescribed in §18-8-1(c)(2)(E) of this code: *Provided*, That instead of the academic assessment results being submitted individually, the learning pod or microschoo may submit the school composite results.

Following discussion,

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

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

Engrossed Committee Substitute for Senate Bill 268 was then put upon its passage.

Pending extended discussion,

Senator Martin moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the passage of Engrossed Committee Substitute for Senate Bill 268.

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

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Jeffries, Lindsay, Plymale, Romano, Stollings, Stover, and Woelfel—13.

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. 268) 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 371, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

Having been read a third time on yesterday, Thursday, February 17, 2022, and now 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.

Eng. Com. Sub. for Senate Bill 438, Relating generally to WV Security for Public Deposits Act.

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

Senators Trump and Nelson, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Trump and Nelson would be as members of a class of persons and that they would be required to vote.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 438) 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 543, Creating Unemployment Compensation Insurance Fraud Unit within Workforce 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 543 pass?"

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

The nays were: Geffert—1.

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. 543) 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 574, Relating to WV PEIA.

On third reading, coming up in regular order, with the right having been granted on February 15, 2022, for amendments to be received on third reading, was read a third time.

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

On page one, section thirty, after line three, by adding thereto a new subsection, designated subsection (b), to read as follows:

(b) The plan shall reimburse any emergency medical services provider or agency as defined in §16-4C-1 *et seq.* at rates negotiated between the emergency medical services provider or agency and the plan.;

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of Senator Takubo's amendments to the bill, the same was put and prevailed.

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

Engrossed Committee Substitute for Senate Bill 574 was then put upon its passage.

Pending discussion,

(Senator Trump in the Chair.)

Pending discussion,

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

Pending discussion,

The President stated that pursuant to Rule 8 of the Rules of the Senate, which states in part "Every member desiring to speak shall . . . confin[e] oneself to the question under debate. . . .", the debate was out order as debate was now on other matters rather than the pending question before the Senate.

The question being "Shall Engrossed Committee Substitute for Senate Bill 574 pass?"

On this question, the yeas were: Boley, Clements, Maroney, Nelson, Plymale, Rucker, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—14.

The nays were: Azinger, Baldwin, Beach, Brown, Caputo, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Martin, Maynard, Phillips, Roberts, Romano, Smith, Stollings, Stover, and Woelfel—20.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 574) rejected.

Eng. Com. Sub. for Senate Bill 584, Relating to WV Infrastructure and Jobs Development Council.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 584) passed with its title.

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

Eng. House Bill 4048, WV Keep, Bear and Drive with Arms Act.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, February 17, 2022, for further amendments to be received on third reading, was read a third 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:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts; Sunday hunting.

(a) Except as authorized by the director or by law, it is unlawful at any time for any person to:

(1) Shoot at any wild bird or wild animal unless it is plainly visible;

(2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging, or active illumination while hunting, locating, attracting, taking, trapping, or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum, or skunk by the use of artificial light or night vision technology, including image intensification, thermal imaging, or active illumination. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less than 10 days nor more than 100 days;

(4) Hunt, take, kill, wound, harass, or shoot at wild animals or wild birds from an airplane or other airborne conveyance, a drone or other unmanned aircraft, an automobile, or other land conveyance, or from a motor-driven water conveyance;

(5) Use a drone or other unmanned aircraft to hunt, take, wound, harass, transport, or kill a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the purposes of hunting, trapping, or killing;

(6) Take any beaver or muskrat by any means other than a trap;

(7) Catch, capture, take, hunt, or kill by seine, net, bait, trap, or snare or like device a wild turkey, ruffed grouse, pheasant, or quail;

(8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his or her possession the nest or eggs;

(9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state forests, state wildlife management areas, or state rail trails with the following permissible exceptions:

(A) A person in possession of a valid license or permit during open firearms hunting season for wild animals and nonmigratory wild birds where hunting is lawful;

(B) A person hunting or taking unprotected species of wild animals, wild birds, and migratory wild birds during the open season, in the open fields, open water, and open marshes of the state where hunting is lawful;

(C) A person carrying a firearm pursuant to §20-2-6 of this code;

(D) A person carrying a firearm for self-defense who is not prohibited from possessing firearms under state or federal law; or

(E) A person carrying a rifle or shotgun for self-defense who is not prohibited from possessing firearms under state or federal law: *Provided*, That this exception does not apply to an uncased rifle or shotgun carried specifically in state park or state forest recreational facilities and marked trails within state park or state forest borders;

~~(10) Possess a loaded rifle or shotgun, a bow with a nocked arrow, or crossbow with a nocked bolt, in or on any vehicle or conveyance, or its attachments. A rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached is considered loaded. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself;~~

~~(11) Carry any unloaded firearm, bow, or crossbow in or on any vehicle or conveyance, or its attachments, that is not in a case or taken apart and securely wrapped between 30 minutes after sunset until 30 minutes before sunrise: *Provided*, That the time periods for carrying unloaded and uncased firearms or crossbows are extended for one hour after sunset as established in this subdivision, if a person is transporting or transferring the firearms or crossbows to or from a hunting site, campsite, home, or other abode;~~

~~(12) (10) Hunt, catch, take, kill, injure, or pursue a wild animal or wild bird with the use of a ferret;~~

~~(13) (11) Buy raw furs, pelts, or skins of fur-bearing animals unless licensed to do so;~~

~~(14) (12) Catch, take, kill, or attempt to catch, take, or kill any fish by any means other than by rod, line, and hooks with natural or artificial lures, unless otherwise authorized by the director: *Provided*, That snaring of any species of sucker, carp, fallfish, and creek chub and catching catfish by hand are lawful if done by a holder of a valid license issued pursuant to §20-2-1 *et seq.* of this code or is exempted from licensure pursuant to §20-2-27 or §20-2-28 of this code;~~

~~(15) (13) Employ, hire, induce, or persuade, with money, things of value, or by any means, any person to hunt, take, catch, or kill any wild animal or wild bird except those species in which there is no closed season; or to fish for, catch, take, or kill any fish, amphibian, or aquatic life that is protected by rule, or the sale of which is otherwise prohibited;~~

~~(16) (14) Hunt, catch, take, kill, capture, pursue, transport, possess, or use any migratory game or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U.S.C. §703 *et seq.*, and its regulations;~~

~~(17) (15) Kill, take, catch, sell, transport, or have in his or her possession, living or dead, any wild bird other than a game bird, including the plumage, skin, or body of any protected bird, irrespective of whether the bird was captured in or out of this state, except the English or European sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*), and cowbird (*Molothrus ater*), which may be killed at any time;~~

~~(18) (16) Use dynamite, explosives, or any poison in any waters of the state for the purpose of killing or taking fish. Any person violating this subdivision is guilty of a felony, and upon~~

conviction thereof, shall be fined not more than \$500 or confined for not less than six months nor more than three years, or both fined and confined;

~~(19)~~ (17) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;

~~(20)~~ (18) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take, or attempt to take any wildlife except as otherwise provided in §20-2-5g and §20-2-42w of this code;

~~(21)~~ (19) Take or attempt to take turkey, bear, elk, or deer with any arrow unless the arrow is equipped with a point having at least two sharp cutting edges measuring in excess of three-fourths of an inch wide;

~~(22)~~ (20) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow, or an arrow which would affect wildlife by any chemical action;

~~(23)~~ (21) Shoot an arrow across any public highway;

~~(24)~~ (22) Permit any dog owned or under his or her control to chase, pursue, or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements for taking wildlife in his or her possession during the closed season on wild animals and wild birds, except a person carrying a firearm for self-defense who is not prohibited from possessing firearms under state or federal law;

~~(25)~~ (23) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race, or wild hunt: *Provided*, That any person, group of persons, club, or organization may hold a trial upon obtaining a permit pursuant to §20-2-56 of this code. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

~~(26)~~ (24) Hunt, catch, take, kill, or attempt to hunt, catch, take, or kill any wild animal, wild bird, or wild fowl except during open seasons;

~~(27)~~ (25) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia; and

~~(28)~~ (26) Catch, take, kill, or attempt to catch, take, or kill any fish by any means within 200 feet of division personnel engaged in stocking fish in public waters.

(b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt throughout the State of West Virginia on private lands on Sundays with the written consent of the private landowner pursuant to §20-2-7 of this code, and it is lawful to hunt throughout the State of West Virginia on federal land where hunting is permitted, in state forests, on land owned or leased by the state for wildlife purposes, and on land managed by the state for wildlife purposes pursuant to a cooperative agreement.

Engrossed House Bill 4048, as just amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 4048 pass?"

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

The nays were: Caputo—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4048) passed.

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

Eng. House Bill 4048—A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to removing the criminal prohibitions against carrying loaded long guns, nocked cross bows with a nocked bolt, or bows with a nocked arrow in a motor vehicle; and removing prohibitions against carrying long guns, cross bows, or bows, that are not in a case or taken apart, in motor vehicles during evening hours.

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 4114, Authorizing certain agencies of the Department of Administration 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, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4114) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4114) takes effect from passage.

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

Eng. House Bill 4299, To prohibit the intentional interference with election processes and creating associated criminal penalties.

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 House Bill 4299 pass?"

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4299) passed.

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

Eng. House Bill 4299—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-9-21, relating to creating the misdemeanor criminal offense of intentionally physically interfering with a voter's travel on walkways, driveways, and parking areas of a polling place with the intent to delay, hinder, harass, interrupt, or intimidate a voter; and establishing penalties.

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

On motion of Senator Takubo, at 11:12 a.m., the Senate recessed until 12:30 p.m. today.

The Senate reconvened at 12:39 p.m. and resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4333, Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 17, 2022, for amendments to be received on third reading, was read a third time.

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

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

ARTICLE 26. HEARING-AID DEALERS AND FITTERS.

§30-26-21. Sunset and transfer of duties provision; effective date.

The State Board of Hearing-Aid Dealers and Fitters established in this article shall terminate on June 30, 2023, unless continued by the Legislature. Pursuant to §4-10-12 and §4-10-13 of this code, the board shall commence all necessary activities pertinent to the wind-up of all board-related activities. Notwithstanding the termination of the board, the regulation and licensure of hearing aid fitters engaged in the practice of dealing in or fitting of hearing aids under §30-26-1 et seq. of this code shall continue with the exception of §30-26-17(6) of this code. Upon termination of the board, the West Virginia Board of Examiners for Speech-Language Pathology and Audiology shall supervise, regulate, and control the practice of dealing in or fitting of hearing aids in this state. Notwithstanding any other provision of code, hearing aids, meaning any wearable device or instrument intended to aid, improve, or compensate for defective or impaired human hearing, may be advertised for mail-order sale in any advertising medium and sold by mail-order sale to any person in this state upon the effective date of this legislation.

ARTICLE 32. SPEECH LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

§30-32-5. Board of Examiners for Speech-Language Pathology and Audiology

(a) The West Virginia Board of Examiners for Speech-Language Pathology and Audiology is continued. The members of the board in office on July 1, 2013, may, unless sooner removed, continue to serve until their respective terms expire or until their successors have been appointed and qualified.

(b) The board consists of the following members appointed by the Governor by and with the advice and consent of the Senate:

(1) ~~Two~~ Three persons who are licensed speech-language pathologists;

(2) Two persons who are licensed audiologists; ~~and~~

(3) One person who is a licensed hearing aid fitter; and

~~(3)~~ (4) One citizen member who is not licensed or registered under this article.

(c) The terms are for three years. No member may serve for more than two consecutive terms.

(d) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for at least three years.

(e) Each member of the board must be a resident of this state during the appointment term.

(f) No board member may serve as an officer of the West Virginia Speech Language and Hearing Association concurrently with his or her service on the board.

(g) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(h) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(i) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license or registration to practice is suspended or revoked.

(j) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(k) The board shall elect annually one of its members as chairperson and one of its members as secretary-treasurer who shall serve at the will and pleasure of the board.

(l) Each member of the board is entitled to receive compensation and expense reimbursement in accordance with §30-1-1 *et seq.* of this code.

(m) A majority of the members of the board constitutes a quorum.

(n) The board shall hold at least one annual meeting. Other meetings shall be held at the call of the chairperson or upon the written request of four members, at the time and place as designated in the call or request.

(o) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

(p) Board members are immune from civil liability for the performance of their official duties so long as they act in good faith.

On motion of Senator Lindsay, the following amendment to Senator Takubo's amendment to the bill (Eng. Com. Sub. for H. B. 4333) was reported by the Clerk:

On page one, section twenty-one, line twelve, after the word "legislation" by changing the period to a colon and inserting the following proviso: *Provided*, That any hearing aid requiring a prescription for use may not be sold by mail-order sale in this state.

Following discussion and a point of inquiry to the President, with resultant response thereto,

The question being on the adoption of Senator Lindsay's amendment to Senator Takubo's amendment to the bill, and on this question, Senator Lindsay demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Brown, Caputo, Geffert, Jeffries, Lindsay, Maroney, Plymale, Romano, Stollings, and Woelfel—12.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

Absent: None.

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

The question now being on the adoption of Senator Takubo's amendment to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4333, as just amended, was then put upon its passage.

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

The nays were: Baldwin, Beach, Caputo, Geffert, Lindsay, Maroney, Romano, and Woelfel—8.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4333) passed.

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

Eng. Com. Sub. for House Bill 4333—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-26-21; and to amend and reenact §30-32-5 of said code, all relating to sunsetting the Board of Hearing-Aid Dealers and Fitters; directing wind up and termination of board; continuing licensure and regulation of hearing aid dealers and fitters under board until date of termination, with certain exception; transferring licensure and regulation of hearing aid dealers and fitters to West Virginia Board of Examiners for Speech-Language Pathology and Audiology upon termination of Board of Hearing-Aid Dealers and Fitters; revising composition of Board of Examiners for Speech-Language Pathology and Audiology; and authorizing advertising and sale of hearing aids by mail upon effective date of legislation.

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

On motion of Senator Hamilton, the Senate reconsidered the vote by which in earlier proceedings today it rejected

Eng. Com. Sub. for Senate Bill 574, Relating to WV PEIA.

The vote thereon having been reconsidered,

The question again being on the passage of the bill,

Pending discussion,

On motion of Senator Takubo, the bill was referred to the Committee on Rules.

The Senate proceeded to the ninth order of business.

Rev. Com. Sub. for Senate Bill 221, Establishing occupational therapy compact.

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

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

On page twenty-six, section fourteen, line six, after the word "conflict" by changing the period to a colon and inserting the following proviso: *Provided*, That any rule or bylaw promulgated by the Occupational Therapy Compact Commission shall not alter, amend, abolish, or contravene, the scope of practice or standard of care in the state of West Virginia for occupational therapists and occupational therapy assistants.

Following discussion,

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

The bill (Rev. Com. Sub. for S. B. 221), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 274, Requiring secretary of DHHR to allocate CPS workers by Bureau of Social Services' district annually.

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

Senate Bill 414, Creating special revenue account for statewide records management program.

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

Senate Bill 480, Relating to DEP Office of Oil and Gas.

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 489, Clarifying amount of deputy sheriff annual salary increase.

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 494, Creating Broadband Carrier Neutral and Open Access Infrastructure Development Fund.

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

Senate Bill 529, Encouraging additional computer science education in WV schools.

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 534, Clarifying that secondary source on insurance is not controlling authority .

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

Senate Bill 541, Requiring homeschooled child's academic assessment be submitted by certain date.

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 568, Relating to health insurance loss ratio information.

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 571, Declaring certain claims to be moral obligations of state.

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 573, Providing system where magistrates shall preside in certain instances outside normal court hours.

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 575, Ensuring that imposition of certain sexual offenses apply to persons working in juvenile facilities .

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 593, Allowing Marshall University's Forensic Analysis Laboratory access and participation in WV DNA database for certain purposes.

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 595, Relating to Dangerousness Assessment Advisory Board.

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 598, Establishing partnerships and aid for at-risk veterans to combat suicide.

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 609, Allowing DOH Commissioner to accept ownership of rented and leased equipment.

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 611, Removing cap on bidder's contract bond.

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

Senate Bill 660, Setting forth standard of care requirements for telehealth practice.

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

Eng. House Bill 4060, Repealing outdated sections of code relating to health.

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

Eng. Com. Sub. for House Bill 4369, Update the telepsychology compact.

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

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

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Senate Bill 137, Requiring persons convicted of certain felonies on or after March 8, 1995, provide DNA samples.

Com. Sub. for Com. Sub. for Senate Bill 216, Creating Student Journalist Press Freedom Restoration Act.

Com. Sub. for Senate Bill 226, Allowing substitute teachers who suspect unfair exclusion from certain assignments to request explanation from certain school officials.

Com. Sub. for Senate Bill 486, Allowing PERS retirees to designate special needs trust as beneficiary.

Com. Sub. for Senate Bill 488, Eliminating restrictions on voting rights for formerly incarcerated individuals.

Com. Sub. for Senate Bill 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority.

Com. Sub. for Senate Bill 535, Providing for revocation of school personnel certification or licensure in certain circumstances.

Senate Bill 548, Authorizing Workforce WV employers to obtain employment classifications and work locations.

Com. Sub. for Senate Bill 585, Creating administrative medicine license for physicians not practicing clinical medicine.

Senate Bill 597, Relating to PSC underground facilities damage prevention and one-call system.

Senate Bill 624, Making supplementary appropriation to DHHR, Division of Health, Laboratory Services.

Com. Sub. for Senate Bill 625, Making supplementary appropriation to DHHR, Division of Health, Vital Statistics Account.

Senate Bill 626, Supplementing, amending, and increasing existing items of appropriation from State Road Fund to DOT, DMV.

Senate Bill 627, Supplementing, amending, and increasing existing item of appropriation from State Road Fund to DOT, DOH.

Senate Bill 634, Making supplementary appropriation to DHHR, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations.

Com. Sub. for Senate Bill 641, Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System.

Senate Bill 669, Relating to contribution levels of certain judges who participate in retirement system.

Senate Bill 670, Permitting newly hired 911 personnel to participate in Emergency Medical Services Retirement System.

And,

Eng. House Bill 3303, Relating to clarifying the process of filling vacancies on ballots.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Karnes, Brown, Rucker, Azinger, Romano, Takubo, Stollings, and Smith.

Thereafter, at the request of Senator Caputo, and by unanimous consent, the remarks by Senator Brown were ordered printed in the Appendix to the Journal.

At the request of Senator Tarr, unanimous consent being granted, the remarks by Senators Rucker and Azinger were ordered printed in the Appendix to the Journal.

(Senator Rucker in the Chair.)

Remarks were made by Senator Blair (Mr. President).

Thereafter, at the request of Senator Tarr, and by unanimous consent, the remarks by Senator Blair (Mr. President) were ordered printed in the Appendix to the Journal.

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

Remarks were made by Senator Caputo.

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 February 17, 2022:

Senate Bill 29: Senator Nelson;

Senate Bill 137: Senator Romano;

Com. Sub. for Senate Bill 216: Senators Maynard and Rucker;

Senate Bill 553: Senators Rucker and Nelson;

Senate Bill 607: Senator Maroney;

Senate Bill 613: Senator Lindsay;

Senate Bill 614: Senator Maroney;

Senate Bill 619: Senators Lindsay and Woodrum;

Senate Bill 620: Senator Lindsay;

Senate Bill 622: Senators Nelson and Caputo;

Senate Bill 646: Senator Lindsay;

Senate Bill 651: Senators Azinger and Plymale;

Senate Bill 653: Senator Lindsay;

Senate Bill 655: Senators Lindsay and Maroney;

Senate Bill 659: Senator Maroney;

Senate Bill 663: Senators Beach, Baldwin, and Lindsay;

Senate Bill 667: Senators Stollings, Baldwin, Lindsay, and Caputo;

Senate Joint Resolution 1: Senator Maroney;

Senate Joint Resolution 2: Senator Maroney;

Senate Joint Resolution 3: Senator Maroney;

Senate Joint Resolution 4: Senator Maroney;

Senate Joint Resolution 6: Senator Maroney;

Senate Joint Resolution 7: Senator Maroney;

Senate Joint Resolution 9: Senator Maroney;

Senate Joint Resolution 11: Senators Lindsay and Baldwin;

Senate Joint Resolution 12: Senators Lindsay and Baldwin;

And,

Senate Concurrent Resolution 48: Senator Jeffries.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 1:28 p.m. the Senate adjourned until Monday, February 21, 2022, at 11 a.m.
