

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2022
FORTY-FOURTH DAY

Charleston, West Virginia, Thursday, February 24, 2022

The Senate met at 11:11 a.m.

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

Prayer was offered by Pastor Mike Harper, North Hills Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael J. Maroney, a senator from the second district.

Pending the reading of the Journal of Wednesday, February 23, 2022,

At the request of Senator Plymale, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

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

The Senate then proceeded to the third order of business.

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

Eng. House Bill 3082—A Bill to amend and reenact §22-5-2 and §22-5-4 of the Code of West Virginia, 1931, as amended, relating to air pollution control; providing the West Virginia Department of Environmental Protection, Division of Air Quality, the authority to invest and reinvest funds held in the Air Pollution Control Fund and the Air Pollution Education and Environment Fund and to receive interest thereon from lawful investments of public funds to offset decreasing permit fee collections; providing that at the end of each fiscal year, unexpended balances, including accrued interest, shall not be transferred or redesignated to other accounts or the General Revenue Fund, but shall remain in the two funds for expenditure by the West Virginia Department of Environmental Protection, Division of Air Quality, in furtherance of its mission; and updating code language with technical corrections.

Referred to the Committee on Finance.

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

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

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 4344—A Bill to repeal §49-2-125 of the Code of West Virginia, 1931, as amended; amend and reenact §49-1-203 of said code; to amend and reenact §49-2-111a and §49-2-111c of said code; to amend said code by adding thereto two new sections, designated §49-2-111d and §49-2-111e; to amend and reenact §49-4-405, §49-4-501 and §49-4-601 of said code; to amend and reenact §49-5-101 of said code; and to amend and reenact §49-9-101, §49-9-103, §49-9-105, §49-9-106 and §49-9-107 of said code, all relating to foster care; creating new definitions; deleting outdated language; requiring bureau of social services to issue a request for proposal to incorporate into its PATH system a matching database, and to create a dashboard database; requiring study of centralized intake; requiring salaries of direct service employees be increased and the Division of Personnel to increase certain salary ranges; implementation of the pay rates and employment requirements shall not be subject to" grievance procedures or private lawsuits; requiring circuit courts to enable multidisciplinary treatment team to meet monthly; including managed care case coordinator in multidisciplinary treatment team; allowing department to hire counsel; requiring sheriff's office to serve notice of hearing without additional compensation; permitting child agency or facility to disclose confidential information in certain circumstances; requiring foster care ombudsman to make recommendations in accordance with the Foster Child Bill of Rights and the Foster and Kinship Parent Bill of Rights; authorizing ombudsman to have access to kinship family; exempting foster care ombudsman from testifying about official duties; making ombudsman's records confidential and not admissible in evidence; removing circumstance for authorizing disclosure of confidential matters; making investigation of complaint confidential except when imminent risk of harm reported to foster care ombudsman; and requiring ombudsman to maintain confidentiality with respect to all matters and exceptions.

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

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

Eng. Com. Sub. for House Bill 4345—A Bill to amend and reenact §17A-3-13 of the Code of West Virginia, 1931, as amended, relating to motor vehicle registration cards by establishing electronic or mobile registration cards; removing the requirement that physical registration cards be signed.

Referred to the Committee on Transportation and Infrastructure.

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 4391—A Bill to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating to school nurses; requiring counties to employ nurses in proportion

to student population; requiring each county to have at least one school nurse; allowing licensed practical nurses supervised by a registered professional nurse to be counted as nurse; requiring that registered professional nurse of a county complete needs assessment; requiring that registered nurses of each county meet as determined by the state board of education; and revising and removing obsolete language.

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

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

Eng. House Bill 4462—A Bill to amend and reenact §8-22-25a of the Code of West Virginia, 1931, as amended, relating to requiring actuarial reports to be prepared and presented to the Legislature's Joint Committee on Pensions and Retirement regarding active deferred retirement option plans every five years.

At the request of Senator Nelson, and by unanimous consent, the bill was taken up for immediate consideration, read a first time, ordered to second reading, referred to the Committee on Pensions; and then to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 4479—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4, §5B-2K-5, and §5B-2K-6, all relating to establishing the Coalfield Communities Grant Facilitation Commission; providing legislative findings; establishing the Commission and providing for its membership and duties; providing for commission assistance from the Economic Development Authority and certain institutions of higher education; authorizing the Commission to provide the local match portion for local public and private entities applying for grants from federal, state and private sources; providing what constitutes a public purpose for eligibility for grant match; establishing a special revenue account; directing the creation of a special subcommittee of the Commission to assist the Commission and grant applicants with training and other technical expertise as directed by the Commission; and providing for annual electronic reports to the Legislature's Joint Committee on Government and Finance.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

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

Eng. House Bill 4496—A Bill to amend and reenact §12-1-12 of the Code of West Virginia, 1931, as amended, to allow interest and earnings on federal COVID-19 relief moneys to be retained in the funds or accounts where those moneys are invested and making said amendments retroactive in application.

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 4607—A Bill to repeal §16-5Y-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2D-9 and §16-2D-11; all relating to certificate of need; removing a health services from the list of services which may not be developed; and exempting health services from certificate of need.

Referred to the Committee on Health and Human Resources.

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

Eng. Com. Sub. for House Bill 4636—A Bill to amend and reenact §11-13-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-13-32, all relating to clarifying that business and occupation taxes, as well as city service fees, that are owed to a city or municipality are considered to be remitted "on time" when the date that they are postmarked is on or before the deadline date, rather than on the date that such taxes are physically received by a city or municipality; and clarifying that cities and municipalities may not impose a late fee or penalty for those taxes owed to them so long as they are postmarked on or before the deadline date.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 4643—A Bill to amend and reenact §16-2D-8, §16-2D-10 and §16-2D-11 of the Code of West Virginia, 1931, as amended, all relating to certificate of need; providing which health services require a certificate of need; and exempting certain health services from certificate of need.

Referred to the Committee on Health and Human Resources.

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

Eng. Com. Sub. for House Bill 4667—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-16-3, relating generally to creating a prohibition on county, municipality, city or town restrictions on advanced air mobility aircraft and advanced air mobility systems and defining terms.

Referred to the Committee on Economic Development; and then to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 4668—A Bill to amend and reenact §17C-15-50 of the Code of West Virginia, 1931, as amended, relating to air bag fraud; prohibiting counterfeit and nonfunctional air bags; establishing penalties for prohibited activities related to air bag fraud; specifying the applicability of the section; and creating exceptions.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 4758—A Bill to amend and reenact §22-3-11 of the Code of West Virginia, 1931, as amended, relating to developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation Program in order to better quantify the potential liability of the Special Reclamation Program for forfeited coal mining permits.

Referred to the Committee on Energy, Industry, and Mining.

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 4768—A Bill to amend and reenact §24-2H-6b of the Code of West Virginia, 1931, as amended, relating to utility hearings, changing hearing location and customer notice provisions.

Referred to the Committee on Government Organization.

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

Eng. House Bill 4769—A Bill to amend and reenact §24-1-9 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement to send recommended decisions by certified mail.

Referred to the Committee on Government Organization.

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

Eng. Com. Sub. for House Bill 4785—A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, relating to judicial vacancies; providing that a vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment if the unexpired term be for a period of not more than three years; and clarifying that the amendment shall apply to judicial vacancies existing at the date of passage.

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 4797—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-30-1, relating to the Electric Vehicle Infrastructure Development Plan for National Electric Vehicle Infrastructure Formula Program funds.

Referred to the Committee on Economic Development.

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

House Concurrent Resolution 81—Requesting the Division of Highways name Bridge Number: 44-013/00-007.41 () (44A028), (38.63102,-81.47307) locally known as POCA TRUSS (SSTT), carrying County Route 13 over POCATALICO RIVER in Roane County, the "U. S. Army Chief Warrant Officer Milford Arnold Cunningham Memorial Bridge".

House Concurrent Resolution 83—Requesting the Division of Highways name a portion of County Route 30/1, beginning at (38.239066), (-82.192876) and ending at (38.239066), (-82.200978), locally known as Sheridan Road, in Lincoln County, the "U.S. Army SGT Charles L. Toppings Memorial Road".

House Concurrent Resolution 84—Requesting the Division of Highways informally name Keyser Street in Wayne, in Wayne County, the "U. S. Navy, Water Tender 3rd Class, V-6, Lewis Glenn Mills Memorial Boulevard".

House Concurrent Resolution 87—Requesting the Division of Highways name the intersection of WV 82 and WV 20 in Cowan, Webster County, the "Joseph Allen Wyatt, Fire Chief of Cowen VFD Memorial Intersection".

The preceding resolutions were referred to the Committee on Transportation and Infrastructure.

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 24th 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:

(Com. Sub. for H. B. 3220), Restrictions on Taxpayer funded lobbying.

(H. B. 4060), Repealing outdated sections of code relating to health.

And,

(Com. Sub. for H. B. 4114), Authorizing certain agencies of the Department of Administration to promulgate legislative rules.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Dean Jeffries,
Chair, House Committee.

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

Your Committee on Finance has had under consideration

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

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

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 100, Establishing secondary location for racetrack video lottery terminals.

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

Com. Sub. for Senate Bill 100 (originating in the Committee on Finance)—A Bill to amend and reenact §19-23-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22A-12 of said code; to amend and reenact §29-22C-3,, §29-22C-4, §29-22C-6, §29-22C-7and, §29-22C-8 of said code; to amend and reenact §29-22D-15 of said code, all relating to allowing for the establishment of a secondary location for pari-mutual wagering on simulcast races, racetrack video lottery terminals, sport wagering kiosks, and racetrack table games of licensed racetracks at an alternative location within the current county of the licensed racetrack; providing for a local option election, defining terms; providing Lottery Commission authority to regulate secondary locations; providing for rulemaking; and providing for licensing of secondary locations.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 232, Relating to punishment for second or third offense felony.

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

Com. Sub. for Senate Bill 232 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-11-18 of the Code of West Virginia, 1931, as amended, relating to punishment for third offense felony; clarifying that release from incarceration includes federal incarceration; requiring that for what would otherwise be a qualifying offense not to be such at

least 20 years of unincarcerated, unsupervised time must have elapsed between the most recent felony offense and the previous offense; and relating to punishment for third offense felony.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Sybolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 424, Relating generally to 2022 Farm Bill.

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

Com. Sub. for Senate Bill 424 (originating in the Committee on Agriculture and Rural Development)—A Bill to repeal §19-1-10, §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-4, §19-2C-5, §19-2C-6, §19-2C-7, §19-2C-8, §19-2C-9, §19-2C-10, and §19-15-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13DD-3 of said code; to amend and reenact §19-1-4a and §19-1-11 of said code; to amend said code by adding thereto one new section, designated §19-1-13; to amend and reenact §19-9-7a of said code; to amend and reenact §19-12E-4 and §19-12E-5 of said code; to amend and reenact §19-15A-4 of said code; to amend and reenact §19-16-6 of said code; to amend and reenact §19-16A-21 of said code; to amend and reenact §19-20C-3 of said code; to amend and reenact §19-36-5 of said code, and to amend said code by adding thereto a new article, designated §30-43-1, §30-43-2, §30-43-3, §30-43-4, §30-43-5, §30-43-6, §30-43-7, §30-43-8, §30-43-9, §30-43-10, §30-43-11, and §30-43-12 of said code, all relating generally to the 2022 Farm Bill; increasing the West Virginia Farm-to-Food bank tax credit; allowing for retroactive application of the tax credit; allowing the Commissioner of Agriculture to accept certain funds and property from federal agencies, individuals, and certain businesses; repealing requirement for Social Security numbers on applications; removing requirement that commissioner file annual report on rural rehabilitation loan program with Joint Committee; requiring commissioner to file annual report detailing department activities with President of the Senate, Speaker of the House, and Joint Committee and sending copy to archives and history; requiring license from state to produce industrial hemp; repealing auctioneers article and transferring regulation of auctioneers from Department of Agriculture to Secretary of State effective July 1, 2023; changing the National Animal Identification System to the Animal Disease Traceability Program; requiring license from state to produce industrial hemp; allowing commissioner to recognize hemp license issued by the USDA; repealing publication requirement for fertilizer law; removing requirement that commissioner publish annual report on the liming material law; removing requirement that commissioner publish and distribute annual report on the law; allowing commissioner to deny, suspend, modify, or revoke license or application for license for violation, conviction, or penalty assessment under a certain federal act; removing requirement that commissioner file annual spay and neuter report; providing that agritourism on land classified as agricultural does not change use of land for zoning purposes; providing that agritourism business may use certain facilities for certain events without complying with fire codes; creating article transferring regulation of auctioneers from the Department of Agriculture to the Secretary of State effective July 1, 2023, providing for definitions, license

requirement; exceptions; defining license application procedure; rulemaking; special revenue fund; bond requirement; requirements for auctioneer and apprentice auctioneer license; examination and background check of applicants; investigation of complaints; duties of auctioneers; procedure for reciprocal or nonresident licenses; orders, hearings, and review by secretary; penalties; suspension, denial, or revocation of licenses; auctioneer contracts; escrow accounts; advertising; effective date of article; and honoring prior licenses and pending applications.

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,

Dave Sypolt,
Chair.

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 the bill contained in the foregoing report from the Committee on Agriculture and Rural Development.

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 590, Clarifying that tenancy includes persons who reside in sober living home.

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

Com. Sub. for Senate Bill 590 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-6-5a; to amend and reenact §37-6A-5 of said code; and to amend and reenact §55-3A-1 of said code, all relating generally to residents of recovery residences; defining terms; providing that a resident of a recovery residence may be immediately discharged in certain circumstances; establishing procedures for removing recovery resident; establishing refund process for fees for residency or services paid to a recovery residence; requiring return transportation be provided to an individual transported to a recovery residence from outside the state of West Virginia; requiring the reporting of certain information to West Virginia Department of Health and Human Resources; requiring award of reasonable attorney fees against recovery residence in certain instances; and requiring recovery residence file a petition for summary relief for wrongful occupation of residential rental property in certain circumstances.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
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 662, Relating to creation, expansion, and authority of resort area district.

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

Com. Sub. for Senate Bill 662 (originating in the Committee on Economic Development)—A Bill to amend and reenact §7-25-3, §7-25-5, §7-25-6, §7-25-10, and §7-25-15 of the Code of West Virginia, 1931, as amended, all relating to resort area districts; updating definitions and petition procedures; clarifying board nominee qualifications; permitting board members to receive reasonable compensation for service; detailing procedures for expansion of Resort Area District; providing for local election; and authorizing districts to collect service assessments from property owners for services.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,
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 Joint Resolution 9, Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment.

And reports the same back with the recommendation that it be adopted; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The resolution, under the original double committee reference, was then referred to the Committee on Finance.

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

Senate Concurrent Resolution 52 (originating in the Committee on Agriculture and Rural Development)—Requesting the Joint Committee on Government and Finance to conduct a formal feasibility study on the viability of establishing an accredited school of veterinary medicine in West Virginia and establishing additional veterinary technician programs in the state.

Whereas, Currently, there are only 33 accredited schools of veterinary medicine ("veterinary schools") in the United States, with only 27 states housing veterinary schools; and

Whereas, The U.S. Bureau of Labor Statistics reported in 2019 that employment for veterinarians nationwide would increase 16% over the next decade, more than double the national average occupational growth (5%-8%); and

Whereas, Throughout 2021, multiple news organizations in West Virginia published articles describing the dire veterinarian shortage; and

Whereas, In 2018, the American Veterinary Medical Association Economics Division identified 113,394 veterinarians living in the United States, of whom 20,000 are expected to retire within the next five to 10 years; and

Whereas, Most counties in West Virginia have fewer veterinarians than the national average per capita and eight counties have no veterinarian at all; and

Whereas, West Virginia does not currently have a veterinary school and, therefore, West Virginia students must leave the state and pay out-of-state tuition to pursue a Doctor of Veterinary Medicine degree; and

Whereas, West Virginia currently spends \$1,040,520 per year to supplement the tuition of 52 West Virginia students who attend veterinary schools at Virginia Polytechnic Institute and State University ("Virginia Tech") (six seats per class) and Mississippi State University ("Mississippi State") (seven seats per class);

Whereas, In addition to the 13 West Virginia first year students who held seats at veterinary schools at Virginia Tech and Mississippi State, an additional 12 West Virginia students were identified as first year veterinary students in 2021 in an American Association of Veterinary Medical College internal data report; and

Whereas, The West Virginia students who meet the minimum qualifications for admissions to the programs at Virginia Tech and Mississippi State has increased from 35 students in 2016-17 to 70 students in 2020-21;

Whereas, Over the last two decades, applications to veterinary schools nationally have increased by 53 percent; and

Whereas, Establishing a veterinary school in West Virginia would enable West Virginia students to remain in West Virginia for their education; and

Whereas, Current student enrollment and interest in animal and nutritional science programs at state colleges and universities demonstrates the need for a veterinary school within the state; and

Whereas, West Virginia has a rich history of agriculture and is committed to developing a sustainable plan to maximize the agricultural sector for economic growth and prosperity, including the development and retention of large animal veterinarians to serve the state's growing agriculture industry; and

Whereas, There exists a need for educated and experienced professionals within the state to support the long-term prosperity of the agricultural industry; and

Whereas, Having a veterinary school in West Virginia would attract students from across the nation to West Virginia, contributing to the economy and providing for the potential that the students will stay in West Virginia; and

Whereas, Considering the recitals above regarding the viability of establishing an accredited school of veterinary medicine in West Virginia, there also exists a concurrent need for additional educated and experienced veterinary technicians to serve and support the long-term prosperity of the agricultural industry in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance, through the Legislative Auditor, is hereby requested to conduct a formal feasibility study on the viability of an accredited veterinary school in West Virginia, and, if necessary, is authorized to contract for the performance of such study with an outside vender; and, be it

Further Resolved,

That the Joint Committee on Government and Finance, through the Legislative Auditor, is hereby requested to conduct a formal feasibility study on the viability of establishing additional veterinary technician programs in West Virginia, and, if necessary, is authorized to contract for the performance of such study with an outside vender; and, be it

Further Resolved,

That the studies shall focus on the most efficient and practical use of existing programs of study at state colleges and universities and the opportunity to incorporate these programs in a manner to prepare students for a pathway of veterinary medicine and a pathway for veterinary technicians, and develop and retain veterinarians and technicians within the state; and,

That the studies shall include a report on all barriers and impediments to creating an accredited veterinary school and additional veterinary technician programs; and, be it

Further Resolved,

That pending the results of the study and in the interim period leading up to the establishment of any veterinary school, if additional seats at other states' veterinary schools are necessary to ensure that the veterinary needs of West Virginia are met; and, be it

Further Resolved,

That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved,

That the expenses necessary to conduct these studies, prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance; and, be it

Further Resolved,

That the funding necessary to secure additional seats at other states' veterinary schools be paid through legislative appropriations to the state's annual budget.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Dave Sypolt,
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

Eng. Com. Sub. for House Bill 4002, Creating the Certified Sites and Development Readiness Program.

And reports the same back with the recommendation that it do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Chandler Swope,
Chair.

At the request of Senator Swope, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4002) contained in the preceding report from the Committee on Economic Development was then referred to the Committee on Finance.

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

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 4084, Relating to advanced recycling.

And has amended same.

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

Respectfully submitted,

Chandler Swope,
Chair.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees:

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

Senate Bill 715—A Bill supplementing and amending the appropriations of public moneys out of the State Treasury in the State Fund, General Revenue, by decreasing items of appropriation to the Department of Economic Development - Office of the Secretary, fund 0256, fiscal year 2022, organization 0307; and by increasing items of appropriation to the Department of Commerce - Office of the Secretary, fund 0606, fiscal year 2022, organization 0327 for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

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

Senate Bill 716—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Education, State Board of Education - Strategic Staff Development, fund 3937, fiscal year 2022, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

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

Senate Bill 717—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to Miscellaneous Boards and Commissions, Board of Medicine - Medical Licensing Board Fund, fund 9070, fiscal year 2022, organization 0945, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

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

Senate Bill 718—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Administration, Travel Management - Aviation Fund, fund 2302, fiscal year 2022, organization 0215, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

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

Senate Bill 719—A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Homeland Security, Fire Commission - Fire Marshal Fees, fund 6152, fiscal year 2022, organization 0619, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

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

Senate Bill 720—A Bill supplementing and amending the appropriations of public moneys out of the State Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the Executive, Governor's Office – Civil Contingent Fund, fund

0105, fiscal year 2022, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022.

Referred to the Committee on Finance.

Senators Lindsay, Hamilton, Stollings, Baldwin, Plymale, Romano, Beach, and Jeffries offered the following resolution:

Senate Resolution 40—Affirming support for Ukrainian sovereignty, the people of Ukraine, and their right to self-determination.

Whereas, Ukraine's population is overwhelmingly Christian, and the people of West Virginia support their right to continue to practice and spread the Christian faith, free of Russian violence and oppression; and

Whereas, The people of Ukraine and West Virginia have a shared love of freedom, independence, self-determination, and self-governance; and

Whereas, The 43.7 million people of Ukraine share an identity which is distinct and separate from Russia; and

Whereas, Approximately 77.8 percent of the Ukrainian population identify as Ukrainian, and only 17.3 percent of people in Ukraine identify as Russian; and

Whereas, The language, culture, and history of Ukraine is rich and distinct from Russian language, culture, and history; and

Whereas, Ukraine first declared independence from communist Russia in 1918; and

Whereas, Ukraine has enjoyed self-governance since its separation from the Soviet Union in August of 1991; and

Whereas, Ukraine ratified its most recent constitution in June of 1996; and

Whereas, Ukraine is recognized as a democratic republic and is governed by President Volodymyr Zelenskyy and Prime minister Denys Shmyhal; and

Whereas, The Ukrainian and West Virginian economies are driven by their abundance of natural resources; and

Whereas, The arable land in Ukraine is significantly larger than that in Russia, and should be used and enjoyed by the people of Ukraine, not exploited by the Russian government to expand its own power; and

Whereas, Persistent Russian interference and aggression weaken Ukrainian growth and investments; and

Whereas, Ukraine is the largest Eastern European country, making the retention of its independence from Russia a security interest of the United States and NATO; and

Whereas, A threat to the sovereign borders of Ukraine is a threat to all Western Democracies; and

Whereas, President Putin is an unstable, unpredictable threat to Europe, NATO, and its allies; therefore, be it

Resolved by the Senate:

That the Senate stands in solidarity with the people of Ukraine in their fight against Russian oppression, aggression, and annexation; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy to the Ukrainian Embassy in Washington, DC.

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

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

The roll being taken, 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 those present and voting having voted in the affirmative, the President declared the resolution (S. R. 40) adopted.

Thereafter, at the request of Senator Baldwin, and by unanimous consent, the remarks by Senators Lindsay, Weld, and Stover regarding the adoption of Senate Resolution 40 were ordered printed in the Appendix to the Journal.

At the request of Senator Woodrum, unanimous consent being granted, the remarks by Senators Baldwin and Azinger regarding the adoption of Senate Resolution 40 were ordered printed in the Appendix to the Journal.

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

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 721 (originating in the Committee on Economic Development)—A Bill to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to municipalities required to be represented on county authority boards.

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

Respectfully submitted,

Chandler Swope,
Chair.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 34, USMC SGTMAJ Herman H. Brawner Memorial Bridge.

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

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

The roll being taken, 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 those present and voting having voted in the affirmative, the President declared the resolution (S. C. R. 34) adopted.

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

Thereafter, at the request of Senator Caputo, and by unanimous consent, the remarks by Senator Romano regarding the adoption of Senate Concurrent Resolution 34 were ordered printed in the Appendix to the Journal.

Senate Concurrent Resolution 37, Harrison County Veterans Memorial Bridge.

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

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

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

Com. Sub. for Senate Concurrent Resolution 45, US Army CPL John D. Doyle, Sr. Memorial Road.

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

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

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

House Concurrent Resolution 28, Cpt. Billy Jake Smith Memorial Bridge.

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

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

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

House Concurrent Resolution 30, U.S. Army Pvt. Dallis H. Johnson WWII Memorial Bridge.

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

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page two, in the Resolved clause, line thirty-two, by striking out the word "WWII";

On page two, in the first Further Resolved clause, line thirty-five, by striking out the word "WWII";

And,

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

House Concurrent Resolution 30—Requesting the Division of Highways name a bridge bearing bridge number 40-039/00-000.10 () (40A048), (38.34513,-81.99779), locally known as TRACE FORK TIMBER BRIDGE, carrying CR 39 over TRACE CREEK in Putnam county as the "U.S. Army Pvt. Dallis H. Johnson Memorial Bridge."

The question now being on the adoption of the resolution (H. C. R. 30), as amended, the same was put and prevailed.

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

House Concurrent Resolution 59, "Warrant Officer James G. Bosley Memorial Bridge.".

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

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page one, in the third Whereas clause, line nine, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the fifth Whereas clause, line thirteen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the sixth Whereas clause, line fifteen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the seventh Whereas clause, line seventeen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the eighth Whereas clause, line twenty, after "21" by inserting the words "years old";

On page two, in the ninth Whereas clause, line twenty-one, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the tenth Whereas clause, line twenty-four, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the eleventh Whereas clause, line twenty-six, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the Resolved clause, line thirty, by striking out the word "Warrant" and inserting in lieu thereof the words "U.S. Army Warrant";

On page two, in the first Further Resolved clause, line thirty-three, by striking out the word "Warrant" and inserting in lieu thereof the words "U.S. Army Warrant";

And,

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

House Concurrent Resolution 59—Requesting the Division of Highways name bridge number 29-093/00-003.42 (29A054), locally known as Claysville Bridge, carrying WV 93 over New Creek in Mineral County, the "U.S. Army Warrant Officer James Gilbert Bosley Memorial Bridge".

The question now being on the adoption of the resolution (H. C. R. 59), as amended, the same was put and prevailed.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 230, Relating generally to public employees grievance procedure.

Having been read a third time on yesterday, February 23, 2022, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Romano, unanimous consent was granted to offer an amendment to the bill on third reading.

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

On page thirteen, section six, line two after the word "expenses:" by striking out the proviso and inserting in lieu thereof a new proviso to read as follows: *Provided*, That if the administrative

law judge at level three finds that the opposing party presented a grievance or defense which lacked any basis in fact or law, was not brought in good faith, or was brought with malice or wrongful purpose, including, but not limited to, delay or harassment, then the administrative law judge may award the prevailing party actual attorney's fees and costs not to exceed \$1,000.

Following discussion,

The question being on the adoption of Senator Romano's amendment 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 230 was then put upon its passage.

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

The nays were: Baldwin, Beach, Brown, Caputo, Geffert, Hamilton, Jeffries, Lindsay, Romano, Stollings, and Woelfel—11.

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. 230) 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 February 17, 2022, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent was granted to offer amendments to the bill on third reading.

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

On page one, section one, after line six, by inserting the following:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

'7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,;

On page two, section two, after line six, by inserting the following:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,;

And,

On page two, section three, by striking out all of lines fourteen and fifteen and inserting in lieu thereof the following:

On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4. Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

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

Engrossed Senate Bill 371 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. Com. Sub. for S. B. 371) 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 S. B. 371) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 463, Best Interests of Child Protection Act of 2022.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, February 23, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Lindsay, 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 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) Collaborative Parental ~~parental~~ planning and agreement about the child's custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent, with the goal of equal (50-50) custodial allocation of the child;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm;

(7) Expeditious, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of this article is to achieve fairness between the parents consistent with the goal of equal (50-50) custodial allocation.

§48-1-102a Goal of equal (50-50) custodial allocation.

It is the goal that equal (50-50) custodial allocation be achieved in every case, that each parent have as much time as possible with the child, and is in the best interest of the child absent findings of facts and conclusions of law by the Court. The court shall, absent an agreement between the parents as to all matters related to custodial allocation, construct a parenting time schedule which maximizes the time each parent has with the child and is consistent with ensuring the child's welfare.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment. ~~vacation of order.~~

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding ~~twelve~~ 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

(3) The parents' work and child-care schedules for the preceding ~~twelve~~ 12 months;

(4) The parents' current work and child-care schedules; and

(5) Any of the circumstances set forth in §48-9-209 of this code that are likely to pose a serious risk to the child ~~and that~~ or that otherwise warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable. ~~And~~

~~(6) Specific findings of fact upon which the court bases its determinations.~~

~~(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.~~

(c) If the parents have not agreed upon the allocation of physical custody of the child, then the allocation shall be made by the court upon the sworn testimony of the parents and their witnesses at a hearing.

(d) If the temporary allocation of physical custody is not on an equal (50-50) basis, it must contain specific findings of fact by the court, based upon the sworn testimony presented at the

hearing, as to the reasons under §48-9-209 of this code that the court ordered the custodial allocation, along with the court's legal conclusions supporting its decision.

(e) A parent who has sought and been denied equal (50-50) physical custody, or who has been denied any physical custody, may file an interlocutory appeal with the West Virginia Intermediate Court of Appeals as to the temporary custodial allocation of the child or children, and the Intermediate Court of Appeals shall provide an expedited review of the order.

(d) (f) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of and considerations required by §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to:

(1) Which parent has taken greater responsibility during the last 12 months for performing caretaking and/or parenting functions relating to the daily needs of the child; and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

(e) In establishing a temporary parenting plan, there shall be a goal of equal (50-50) physical custody which is to be evaluated and considered in accordance with the criteria set forth in §48-9-209 of this code.

§48-9-205. Permanent parenting plan.

(a) A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file a joint plan. A proposed plan shall be verified and shall state, to the extent known or reasonably discoverable by the filing party or parties:

(1) The name, address, and length of residence of any adults with whom the child has lived for one year or more, or in the case of a child less than one year of age, any adults with whom the child has lived since the child's birth;

(2) The name and address of each of the child's parents and any other individuals with standing to participate in the action under §48-9-103 of this code;

(3) A description of the allocation of caretaking and other parenting responsibilities performed by each person named in §48-9-205(a)(1) and §48-9-205(a)(2) of this code;

(4) A description of the work and child-care schedules of any person seeking an allocation of custodial responsibility and any expected changes to these schedules in the near future;

(5) A description of the child's school and extracurricular activities;

(6) A description of any of the ~~limiting factors as~~ criteria described in §48-9-209 of this code that are present, including any restraining orders against either parent to prevent domestic or family violence, by case number and jurisdiction;

(7) Required financial information; and

(8) A description of the known areas of agreement and disagreement with any other parenting plan submitted in the case.

The court shall maintain the confidentiality of any information required to be filed under this section when the person giving that information has a reasonable fear of domestic abuse, and disclosure of the information would increase that fear.

(b) The court shall develop a process to identify cases in which there is credible information that child abuse or neglect as defined in §49-1-201 of this code or domestic violence as defined in §48-27-202 of this code has occurred. The process shall include assistance for possible victims of domestic abuse in complying with §48-9-205(a)(6) of this code and referral to appropriate resources for safe shelter, counseling, safety planning, information regarding the potential impact of domestic abuse on children, and information regarding civil and criminal remedies for domestic abuse. The process shall also include a system for ensuring that jointly submitted parenting plans that are filed in cases in which there is credible information that child abuse or domestic abuse has occurred receive the court review that is mandated by §48-9-202(b) of this code.

(c) Upon motion of a party and after consideration of the evidence, the court shall order a parenting plan consistent with the provisions of §48-9-206 through §48-9-209 of this code, containing:

(1) A provision for the child's living arrangements and each parent's custodial responsibility, which shall include either:

(A) A custodial schedule that designates in which parent's home each minor child will reside on given days of the year; or

(B) A formula or method for determining a schedule in sufficient detail that, if necessary, the schedule can be enforced in subsequent proceedings by the court;

(2) An allocation of decision-making responsibility as to significant matters reasonably likely to arise with respect to the child;

(3) A provision consistent with §48-9-202 of this code for resolution of disputes that arise under the plan and remedies for violations of the plan; and

(4) Provisions for the financial support of the child or children; and

~~(4)~~ (5) A plan for the custody of the child ~~should if~~ if one or both of the parents as a member of the National Guard, a reserve component, or an active duty component ~~be~~ are mobilized, deployed, or called to active duty.

(d) A parenting plan may, at the court's discretion, contain provisions that address matters that are expected to arise in the event of a party's relocation, or provide for future modifications in the parenting plan if specified contingencies occur.

§48-9-206. Allocation of custodial responsibility at final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent ~~may be expected to achieve any of the following objectives:~~ shall be equal ("50-50").

~~(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;~~

~~(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;~~

~~(3) To keep siblings together when the court finds that doing so is necessary to their welfare;~~

~~(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;~~

~~(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable expectations of the parents in the interest of the child, would be appropriate to consider;~~

~~(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;~~

~~(7) To~~ (b) The court shall apply the principles set forth in §48-9-403(d) of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section.

~~(8) To consider the stage of a child's development;~~

~~(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;~~

~~(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and~~

~~(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan;~~

(c) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties unless both parties agreed to the allocation provided for in the temporary order.

~~(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code. and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: *Provided*, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.~~

~~(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.~~

~~(e)~~ (d) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a final hearing, which shall ~~not~~ be conducted ~~exclusively~~ by the presentation of evidence. ~~by preffer~~. The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact and conclusions of law supporting the determination.

§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child, including the child's education and health care, to one parent or to ~~two~~ both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decision-making on behalf of the child, and the existence of any considerations as set forth in §48-9-209 of this code.

~~(1) The allocation of custodial responsibility under §48-9-206 of this code;~~

~~(2)~~ (1) The level of each parent's participation in past decision making on behalf of the child;

~~(3)~~ (2) The wishes of the parents; and

(4) (3) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child.

(5) ~~Prior agreements of the parties; and~~

~~(6) The existence of any limiting factors, as set forth in section 9-209 of this article.~~

(b) If each of the child's legal parents has been exercising a reasonable share of the parenting functions for the child, the court shall presume that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted ~~is overcome if there is a history of domestic abuse, neglect, or abandonment, or by a showing that joint allocation of decision-making responsibility is not in the child's best interest~~ upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. *Provided, That* ~~the~~ The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise ~~provided or agreed to~~ by the parents or ordered by the court, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

§48-9-208. ~~Criteria for parenting plan; Parental~~ dispute resolution.

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to a parenting agreement ~~under section 9-201~~, in §48-9-201 of this code, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents' ability to participate in a prescribed dispute resolution process; and

(3) The existence of any ~~limiting factor as set forth in section 209 of this article.~~ §48-9-209 of this code.

(b) The court may order a non-judicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting ~~such a~~ person or agency. The disposition of a dispute through a non-judicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their dispute by non-judicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption, or other serious irregularity.

(c) This section is subject to the limitations imposed by ~~section two hundred two of this article.~~ §48-9-202 of this code.

§48-9-209. Parenting plan; ~~limiting factors.~~ considerations.

~~(a) If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a parent who would otherwise be allocated responsibility under a parenting plan: When entering an order approving or implementing a temporary or permanent parenting plan order, including custodial allocation, the court shall consider whether a parent:~~

(1) Has abused, neglected, or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* of this code;

(3) Has committed domestic violence, as defined in §48-27-202 of this code;

(4) Has overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

- (C) The allocation of exclusive custodial responsibility to one of ~~them~~ the parents;
- (2) Supervision of the custodial time between a parent and the child;
- (3) Exchange of the child between parents through an intermediary, or in a protected setting;
- (4) Restraints on the parent from communication with, or proximity to, the other parent or the child;
- (5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the ~~twenty-four~~ 24-hour period immediately preceding such exercise;
- (6) Denial of overnight custodial responsibility;
- (7) Restrictions on the presence of specific persons while the parent is with the child;
- (8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;
- (9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or
- (10) Any other constraints or conditions that the court ~~deems~~ determines to be necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.
- (c) If a parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.
- (d) If the court determines, based on the investigation described in part ~~three~~ III of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. ~~Such~~ The reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.
- (e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5), of subsection (a) of this section, may move the court pursuant to ~~subdivision (4), subsection (b), section one hundred and one, article five, chapter forty-nine~~ §49-5-101(b)(4) of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

- (A) Substantiated;
- (B) Unsubstantiated;
- (C) Inconclusive; or
- (D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties information received from the department only if it has reason to believe a parent knowingly made a false report.

(f) In determining whether the presumption for an equal (50-50) allocation of physical custody has been rebutted, a court shall consider all relevant factors including any of the following:

- (1) The factors set forth in subdivision (a) of this section;
- (2) Whether the child:

(A) Was conceived as a result of sexual assault or sexual abuse by a parent as set forth in §48-9-209a of this code;

(B) Has special needs, a chronic illness, or other serious medical condition and would receive more appropriate care under another custodial allocation;

(C) Is a nursing child less than six months of age, or less than one year of age if the child receives substantial nutrition through nursing; or

(D) Will be separated from his or her siblings or the arrangement would otherwise disrupt the child's opportunities to bond with his or her siblings;

- (3) Whether a parent:

(A) Is in arrears or currently noncompliant with a previous order of the court regarding payment of child support payments for another child;

(B) Is unwilling to seek necessary medical intervention for the child who has a serious medical condition;

(C) Has a chronic illness or other condition that renders him or her unable to provide proper care for the child;

(D) Has not been significantly involved in the child's life prior to the hearing, except when the lack of involvement is the result of actions on the part of the other parent which were, without good cause, designed to deprive the parent of contact and involvement with his or her child or children without good cause;

(E) Has professional responsibilities which render him or her unable to devote adequate time to the child;

(F) Has a work schedule that causes the child or children to be in the care of a third party rather than the other available parent;

(G) Does not have a stable housing situation: *Provided*, That a parent's temporary residence with a child in a domestic violence shelter shall not constitute an unsafe housing situation; or

(H) Is unwilling or unable to perform caretaking functions for the child as required by §48-1-210 of this code;

(4) Whether a parent, partner, or other person living in that parent's household:

(A) Has been adjudicated in an abuse and neglect proceeding to have abused or neglected a child, or has a pending abuse and neglect case;

(B) Has been judicially determined to have committed domestic violence or has a pending domestic violence case;

(C) Has a felony criminal record;

(D) Is addicted to a controlled substance or alcohol;

(E) Has threatened or has actually detained the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody: *Provided*, That a parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the parent's intent to retain or conceal the child from the other parent; or

(E) Has been involuntarily committed to a mental health facility, or suffers from a serious mental illness;

(5) Whether an equal (50-50) physical allocation is:

(A) Impractical due to the physical distance between the parents' residences;

(B) Impractical due to the cost and difficulty of transporting the child;

(C) Impractical due to each parent's and the child's daily schedules;

(D) Would disrupt the education of the child; or

(E) Contrary to the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(6) Whether the parents cannot work cooperatively and collaboratively in the best interest of the child; or

(7) Whether a parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

§48-9-401. Modification upon showing of changed circumstances or harm.

(a) Except as provided in ~~section 9-402 or 9-403, §48-9-402 or §48-9-403~~ of this code, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated ~~therein in the prior order~~, that a substantial change has occurred in the circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation, except under the circumstances set forth in §48-9-209(f) of this code; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in ~~subsection (a), section 9-209, §48-9-209(a)~~ of this code, after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to ~~section 9-209~~ §48-9-209 of this code, to protect the child or the child's parent.

§48-9-402. Modification without showing of changed circumstances.

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of ~~change~~ the changed circumstances required by §48-9-401(a) of this code, if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; ~~or~~

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of ~~fourteen~~ 14; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of ~~fourteen~~ 14 and, in the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference;

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

§48-9-602. Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is ~~deemed~~ considered to be the custodian of the child for the purposes of such federal and state statutes. When a court orders that custodial allocation shall be on an equal (50-50) basis, the court shall also specify in its order which parent may claim state and federal income tax deductions and exemptions for the child or children.

§48-9-603. Effect of enactment; operative dates.

~~(a) The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.~~

~~(b) The provisions of §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.~~

~~(c) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision-making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d) (a) The amendments to this chapter ~~made~~ enacted during the 2021 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(b) The amendments to this chapter enacted during the regular session of the Legislature, 2022, do not constitute a change in circumstances or other basis for modification under §48-9-401 or §48-9-402 of this code.~~

~~(e) (c) The amendments to this chapter enacted during the regular session of the Legislature, 2022, shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.~~

(d) The amendments to this chapter enacted during the regular session of the Legislature, 2022, shall be known as the 2022 Best Interest of the Child Act.

Following discussion,

The question being on the adoption of Senator Lindsay's amendment to the bill, the same was put and did not prevail.

Engrossed Committee Substitute for Senate Bill 463 was then put upon its passage.

(Senator Rucker in the Chair.)

Pending discussion,

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

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 463 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Brown, Clements, Grady, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—25.

The nays were: Baldwin, Beach, Caputo, Geffert, Lindsay, Plymale, Romano, Stollings, and Woelfel—9.

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. 463) 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 489, Clarifying amount of deputy sheriff annual salary increase.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for Senate Bill 622, Establishing requirements for carbon dioxide sequestration.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

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

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. S. B. 640) passed with its title.

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

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

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 588, Relating to WV Rails to Trails Program.

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

Com. Sub. for Senate Bill 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses.

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

Eng. House Joint Resolution 102, Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection.

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

At the request of Senator Takubo, and by unanimous consent, the resolution 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 71, Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements.

Com. Sub. for Senate Bill 420, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments.

Com. Sub. for Senate Bill 466, Relating to limitations on civil actions or appeals brought by inmates.

Com. Sub. for Senate Bill 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity.

Com. Sub. for Senate Bill 536, Relating generally to controlled substance criminal offenses.

Com. Sub. for Senate Bill 582, Creating WV Workforce Resiliency Act.

Senate Bill 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction.

Senate Bill 638, Changing hearing and notice provisions for failing or distressed public utilities.

Com. Sub. for Senate Bill 648, Relating to Cable Television Systems Act.

Com. Sub. for Senate Bill 694, Relating to oil and gas conservation.

Com. Sub. for Senate Bill 698, Relating to number and selection of members for Governor's Veterans Council.

Com. Sub. for Senate Bill 701, Including children and spouses of deceased active-duty officers in eligibility for War Orphan Education Program.

Senate Bill 713, Removing statutory limit for Environmental Laboratory Certification Fund.

Senate Bill 714, Relating to tie votes by Coal Mine Safety and Technical Review Committee.

And,

Eng. Com. Sub. for House Bill 4126, Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Geffert, Brown, Azinger, and Romano.

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

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

At the request of Senator Caputo, and by unanimous consent, the remarks by Senator Romano were ordered printed in the Appendix to the Journal.

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

The Senate again proceeded to the twelfth order of business.

Remarks were made by Senators Maynard, Takubo, Romano, and Karnes.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills on February 23, 2022:

Senate Bill 699: Senator Stollings;

And,

Senate Bill 700: Senator Phillips.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills on February 23, 2022:

Senate Bill 252: Senator Swope;

Senate Bill 424: Senator Rucker;

Senate Bill 647: Senator Lindsay;

Senate Bill 656: Senators Jeffries and Lindsay;

And,

Senate Bill 694: Senator Nelson.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 1:05 p.m., the Senate adjourned until tomorrow, Friday, February 25, 2022, at 11 a.m.

SENATE CALENDAR

**Friday, February 25, 2022
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 52 - Requesting study on establishing accredited school of veterinary medicine in WV

THIRD READING

Eng. Com. Sub. for S. B. 489 - Clarifying amount of deputy sheriff annual salary increase

Eng. Com. Sub. for S. B. 588 - Relating to WV Rails to Trails Program

Eng. Com. Sub. for S. B. 616 - Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses

Eng. Com. Sub. for S. B. 622 - Establishing requirements for carbon dioxide sequestration

Eng. H. J. R. 102 - Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection - (With right to amend)

SECOND READING

Com. Sub. for S. B. 71 - Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements

Com. Sub. for S. B. 420 - Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments (original similar to HB4279)

Com. Sub. for S. B. 466 - Relating to limitations on civil actions or appeals brought by inmates

Com. Sub. for S. B. 522 - Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity (original similar to HB4500)

Com. Sub. for S. B. 536 - Relating generally to controlled substance criminal offenses (original similar to HB4493)

Com. Sub. for S. B. 582 - Creating WV Workforce Resiliency Act (original similar to HB4574)

S. B. 603 - Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction

S. B. 638 - Changing hearing and notice provisions for failing or distressed public utilities

Com. Sub. for S. B. 648 - Relating to Cable Television Systems Act

Com. Sub. for S. B. 694 - Relating to oil and gas conservation

Com. Sub. for S. B. 698 - Relating to number and selection of members for Governor's Veterans Council

Com. Sub. for S. B. 701 - Including children and spouses of deceased active-duty officers in eligibility for War Orphan Education Program

S. B. 713 - Removing statutory limit for Environmental Laboratory Certification Fund

S. B. 714 - Relating to tie votes by Coal Mine Safety and Technical Review Committee

Eng. Com. Sub. for H. B. 4126 - Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules - (Com. amend. pending)

FIRST READING

Com. Sub. for S. B. 64 - Allowing county commissions to impose amusement tax (original similar to HB4513)

Com. Sub. for S. B. 100 - Establishing secondary location for racetrack video lottery terminals

Com. Sub. for S. B. 232 - Relating to punishment for third offense felony

Com. Sub. for S. B. 424 - Relating generally to 2022 Farm Bill (original similar to HB4332, HB4554)

Com. Sub. for S. B. 590 - Clarifying that tenancy includes persons who reside in sober living home

Com. Sub. for S. B. 662 - Relating to creation, expansion, and authority of resort area district

S. B. 721 - Relating to municipalities required to be represented on county authority boards

Eng. Com. Sub. for H. B. 4084 - Relating to advanced recycling - (Com. amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2022

Friday, February 25, 2022

9 a.m.	Health & Human Resources	(Room 451M)
10 a.m.	Banking & Insurance	(Room 451M)
15 Minutes After Adjournment of Senate Floor Session	Education	(Room 451M)
15 Minutes After Adjournment of Education	Judiciary	(Room 208W)