

West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Sixth Legislature
First Regular Session

Held at Charleston
Published by the Clerk of the House



January 12, 2023
SECOND DAY

Thursday, January 12, 2023

SECOND DAY

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

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

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

Mr. Speaker, Mr. Hanshaw announced that Delegate McGeehan, who was absent yesterday, had taken the oath of office. The Delegate was sworn in earlier on this morning.

The Clerk proceeded to read the Journal of Wednesday, January 11, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Resolutions Introduced

Delegates Cooper, Longanacre, Anderson, Heckert, Reynolds, Sheedy and Smith offered the following resolution, which was referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 2 – “Requesting the Division of Highways name bridge number 32-023/03-000.17 (32A097), locally known as Cooks Fort Bridge, carrying CR 23/3 over Indian Creek in Monroe County, the ‘U. S. Army CPL Billy F. Mann Memorial Bridge’.”

Delegate Westfall offered the following resolution, which was referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 3 – “Requesting the Division of Highways name bridge number 18-028/00-000.6, (18A114) locally known as Frozen Camp Road Bridge carrying Frozen Camp Road over Little Mill Creek in Jackson County, the ‘U. S. Army Lieutenant Oscar J. Harris Memorial Bridge’.”

Delegates Reynolds, Cooper, Sheedy, Zatezalo, Miller, Horst, Jeffries, Willis, W. Hall, Nestor and Kelly offered the following resolution, which was referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 4 – “Requesting the Division of Highways name bridge number 26-054/00-005.74 (26A046), (39.88578, -80.72476) locally known as Ireland Bridge, carrying CR 54 over Big Grave Creek in Marshall County the ‘U.S. Army MSG Jon D. Wayt Memorial Bridge’.”

Bills Introduced

On motions for leave, bills were introduced and severally referred as follows:

By Delegates Householder, Gearheart, Vance, Hardy, Criss, Marple, Linville, Anderson, Zatezalo, Phillips and Warner:

H. B. 2001 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-4g; to amend and reenact §11B-2-20 of said code; and to

amend said code by adding thereto a new section, designated §11B-2-33, all relating to reducing personal income tax rates generally; reducing rates by certain amounts after December 31, 2023; creating stabilization and future economic reform fund from which expenditures may be made only upon appropriation of the Legislature and solely for the purpose of reducing the rates of personal income tax in accordance with this and future Acts of the Legislature; and directing the secretary of revenue to annually cause to be deposited into the stabilization and future economic reform fund the first 50 percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended instead of directing the secretary of revenue to annually of causing those surplus revenues to be deposited into the revenue shortfall reserve fund"; to the Committee on Finance.

By Delegates Jeffries, Storch, Hott, Kelly, Dillon, Pinson, Heckert, Street, Lucas, Miller and Bridges:

H. B. 2002 - "A Bill to amend and reenact §11-21-10a and §11-21-16 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-5K-7; and to amend said code by adding thereto a new article, designated §16-66-1, §16-66-2, and §16-66-3, all relating to providing support for families; increasing the adoption tax credit for tax years 2023 forward; defining terms; providing rulemaking authority to the tax commissioner; establishing eligibility of adopted children of West Virginia residents for early intervention services; establishing the West Virginia Mothers and Babies Pregnancy Support Program; defining terms; establishing which organizations are eligible for funding pursuant to the program; allowing bureau to contract with management agency to provide program services; and establishing requirements and responsibilities of a management agency"; to the Committee on Health and Human Resources then Finance.

By Delegates Hanshaw (Mr. Speaker), Jennings, Petitto, Tully, Hanna, Kirby, Ellington, Foggin, Capito, Hornby and Cooper:

H. B. 2003 - "A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended, to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; and to amend said code by adding thereto a new section, designated §18A-5-9; all relating to providing early childhood assistant teachers and systems of support for grade level literacy and numeracy by end of third grade; making findings; replacing transformative intervention framework with multi-tiered system of support; addressing both reading and mathematics; requiring identification and monitoring of student progress; requiring use of screening and/or benchmark assessments, providing for assessment system and requiring state board adoption and establishment of cut scores; providing for services to be provided to students exhibiting substantial deficiency; specifying minimum information and notice to parent or guardian; providing for professional learning for certain teachers and assistant teachers and specifying subjects; ensuring certain training and instruction be provided by education preparation programs that prepare candidates seeking licensure for elementary education; authorizing extended year attendance requirement as condition for promotion if certain conditions are met; providing for data from the screening and /or benchmark assessments to be used to inform classroom teacher's recommendation regarding grade level retention; requiring county board implementation; requiring reports by state board; requiring certain legislative appropriation and other funds be used for implementation; requiring retention in third grade of public school student who demonstrate minimal grade level understanding and ability upon recommendation of teacher and student assistance team; providing exceptions; requiring students starting in the fourth grade who score below proficient in English language arts or mathematics on general summative assessment to continue to be provided intervention until grade level proficient; requiring early childhood classroom assistant teacher in certain grade levels and enrollment levels in said grade levels; removing outdated provisions; increasing ratios of service personnel per student net

enrollment in state basic foundation program; requiring early childhood classroom assistant teachers exercise authority and control over students in certain instances and within certain limits; prohibiting assignment of noninstructional duties to early childhood classroom assistant teacher in excess of contractual requirements unless mutually agreed upon; and requiring in-service training for early childhood classroom assistant teachers on responsibilities and appropriate measures for exercising authority and control over students"; to the Committee on Education then Finance.

By Delegates Phillips, Kimble, Nestor, Cannon, Holstein, Willis, Espinosa, Miller, A. Hall, Sheedy and Martin:

H. B. 2004 - "A Bill to amend and reenact §31A-2A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §31A-2B-1; §31A-2B-2, §31A-2B-3, §31A-2B-4, §31A-2B-5, §31A-2B-6, §31A-2B-7, §31A-2B-8, §31A-2B-9, and §31A-2B-10, all relating generally to payment card transactions involving firearm and ammunition retailers; clarifying that financial records may not be disclosed or compelled to be disclosed in a manner that discriminates against certain constitutionally protected activity; providing a short title; setting forth legislative findings and intent; defining terms; prohibiting disclosure of protected financial information except in limited circumstances; allowing for written authorization for disclosure of protected financial information; establishing requirements for subpoenas of protected financial information; prohibiting use of protected financial information for certain discriminatory conduct; providing civil remedies for violation of new article with liquidated or compensatory damages; allowing an aggrieved party in a civil action to recover attorney's fees and injunctive relief for violations; limiting defenses available to civil remedies; establishing a statute of limitations for civil remedies; providing that civil remedies are exclusive for violations; authorizing the State Treasurer to disqualify financial institutions from certain state contracts if violations have occurred; establishing the scope of new requirements; and providing a severability clause"; to the Committee on the Judiciary.

By Delegates Worrell, Ellington, Smith, Clark, Dean, Barnhart, Statler, Fehrenbacher, Riley, Dittman and Hillenbrand:

H. B. 2005 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-14-4, establishing the dual enrollment pilot program to be administered by the Higher Education Policy Commission and the Council for Community and Technical College Education in conjunction with the State Board of Education"; to the Committee on Workforce Development then Education.

By Delegates Summers, Toney, Pinson, Gearheart, Mallow, W. Hall, Rohrbach, Hite, Honaker, Lucas and Westfall:

H. B. 2006 - "A Bill to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §6-7-2a of said code; to repeal §9-1-1 of said code; to amend and reenact §9-1-2 of said code; to amend and reenact §9-2-1 of said code; to repeal §9-2-1a of said code; to amend and reenact §9-2-2, §9-2-5, and §9-2-6, of said code; to repeal §9-2-9 of said code; to amend and reenact §9-2-13 of said code; to amend said code by adding thereto a new section designated, §9-2-14; to amend and reenact §16-1-2, §16-1-3, §16-1-4, and §16-1-6; to amend said code by adding thereto a new section designated, §16-1-22; to amend and reenact §26-1-1, §26-1-2, and §26-1-3; to amend said code by adding thereto a new section, designated §26-1-4; to repeal §26-3-1, §26-3-2, §26-3-3, §26-3-4 and §26-3-5 of said code; to repeal §26-5A-5a of said code; to repeal §26-8-1, §26-8-2, and §26-8-3 of said code; to repeal §26-9-1 and §26-9-2 of said code; to repeal §26-10-1 of said code; to repeal §26-11-1, §26-11-2, §26-11-3 and §26-11-4 of said code; to repeal §26-5-1 of said code; to repeal to amend and reenact §48-18-101 of said code; to amend

and reenact §49-1-106 of said code; all relating to reorganizing the Department of Health and Human Resources"; to the Committee on Health and Human Resources then Finance.

By Delegates Foster, Chiarelli, Horst, Clark, Devault, Coop-Gonzalez, Brooks, Kirby, Maynor, Adkins and Ward:

H. B. 2007 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-20; and to amend said code by adding thereto a new section, designated §30-14-17, all relating to prohibiting certain medical practices"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Longanacre, Crouse, Ferrell, Ridenour, Fast, Thorne, Keaton, Kump, Burkhammer, Ross and McGeehan:

H. B. 2008 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-28-1, §7-28-2, §7-28-3, and §7-28-4, all relating to requiring local entities to enforce immigration laws; providing for definitions; requiring that a local entity not prohibit the enforcement of immigration laws or the cooperation with other governmental agencies to enforce immigration laws; protecting the taxpayers of West Virginia by ensuring that cities, towns, municipalities and counties in West Virginia are immediately required to contact the United States Immigration and Customs Enforcement to identify where noncitizen residents are residing, so that the matter of their illegal status is resolved in the courts; and prohibiting discrimination while enforcing existing immigration laws and prohibiting sanctuary cities in West Virginia"; to the Committee on the Judiciary.

By Delegate Foster:

H. B. 2503 - "A Bill to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended, relating to requiring the Department of Health and Human Resources to pay the attorney fees of an adoptive parent in a subsidized adoption"; to the Committee on Health and Human Resources.

By Delegate Foster:

H. B. 2504 - "A Bill to amend and reenact §18C-7-6 and §18C-7-7 of the Code of West Virginia, 1931, as amended, relating to PROMISE Scholarship Program requirements; requiring repayment of scholarship if student is not employed in West Virginia following graduation, under certain circumstances"; to the Committee on Education then Finance.

By Delegate Criss:

H. B. 2505 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44A-5-1, §44A-5-2, §44A-5-3, §44A-5-4, and §44A-5-5, all relating to creating the Supported Decision-Making Act; providing for a legislative purpose; providing for definitions; laying out the requirements for the petition; creating Independent Educational Program (IEP) requirements; and providing for transitional planning"; to the Committee on Education then the Judiciary.

By Delegates Linville, Howell, Cannon, Householder, Criss, Maynor and W. Hall:

H. B. 2506 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-4-11, relating to creating a title clearinghouse for nonresident businesses; authorizing the Division of Motor Vehicles to regulate participation in the clearinghouse; authorizing the Division of Motor Vehicles to set fees for participants; and authorizing fleet registration"; to the Committee on Technology and Infrastructure.

By Delegate Linville:

H. B. 2507 - "A Bill to amend and reenact §6C-2-1, §6C-2-2, §6C-2-3, §6C-2-4, and §6C-2-6 of the Code of West Virginia, 1931, as amended, all relating to West Virginia public employees grievance procedure; clarifying that actions by an agency taken during a declared state of preparedness or emergency are not grievable; requiring a notarized grievance form; providing that a grievance must be filed within the time limits specified or it may be dismissed at level one; authorizing refiling of grievances dismissed without prejudice; extending certain time limits; providing for appeal of dismissed grievances; providing that the grievance evaluator and the administrative law judge must hold all other proceedings in abeyance until a ruling on motion to dismiss; adding grounds for dismissal of grievance; clarifying that grievances may be consolidated so long as the initial grievance has not been dismissed; providing that proceedings may be rescheduled for good cause shown including agency attorney no longer employed by agency; requiring that grievant representatives must provide the names and work location of employees being represented; requiring that employees must provide the name and contact information of representative; providing that available annual leave will be charged for work hours used in preparing for and attending the grievance hearing in excess of certain limits; and clarifying limitation on representation is limited by work requirements and specifying employer discretion in those instances"; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegate Keaton:

H. B. 2508 - "A Bill to amend and reenact §19-19-4 of the Code of West Virginia, 1931, as amended, relating to adding a clear and convincing evidentiary standard of proof for certain actions against agricultural operations"; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegate Steele:

H. B. 2509 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §48-1A-101, §48-1A-201, §48-1A-301, §48-1A-401, §48-1A-501, §48-1A-601, §48-1A-701, §48-1A-801, §48-1A-901 and §48-1A-1001, all relating to the Uniform Premarital Agreement Act; defining terms; setting forth requirements and content of agreement; providing for the effect, amendment, revocation and enforcement of such agreements; establishing statute of limitations, application and construction of article; and setting forth short title"; to the Committee on the Judiciary.

By Delegates Howell, Clark, Smith, Crouse, Honaker, Ferrell, Cannon, Phillips, Kelly, Hott and Zatezalo:

H. B. 2511 - "A Bill to amend and reenact §11-15-3c of the Code of West Virginia, 1931, as amended, relating to modifying the collection and payment by the seller of sales tax on seller-financed sales of motor vehicles to be done as the seller receives the proceeds of the sale from the buyer, equal to the applicable percent sales tax of the amount of the monthly payment, applied to each payment, and continuing for the entire term of the loan period"; to the Committee on Finance.

By Delegates Smith, Clark, Howell, Phillips, Crouse, Zatezalo, Thorne and Storch:

H. B. 2513 - "A Bill to amend and reenact §3-2-18 of the Code of West Virginia, 1931, as amended, relating to the deadline by which county clerks must report voter participation history after an election into the statewide voter registration system"; to the Committee on the Judiciary.

By Delegates Howell, Crouse, Jennings, Ferrell, Phillips, Honaker, Linville, Zatezalo and Thorne:

H. B. 2514 - "A Bill to amend and reenact §17C-14-11 of the Code of West Virginia, 1931, as amended, relating to criminal penalties for placing glass or other debris on highways"; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegates Howell, Clark, Smith, Crouse, Jennings, Ferrell, Phillips, Honaker, Cannon, Linville and Hott:

H. B. 2515 - "A Bill to amend and reenact §9-3-1 and of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1B-4; and by adding thereto a new section, designated §21A-10-24, relating to requiring Workforce West Virginia, Higher Education Policy Commission, and the Bureau for Family Assistance to develop and maintain an inventory of available services and supports for single parents who wish to obtain a degree, secure workforce training, or reenter the workforce"; to the Committee on Workforce Development then Government Organization.

By Delegates Reynolds, Storch, Cooper, Sheedy, Willis, Jeffries, W. Hall, Nestor, Kelly, Zatezalo and Ferrell:

H. B. 2516 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-7A-41, relating to ensuring that coaching days spent by retired teachers are not counted towards a limit on days for retired teachers"; to the Committee on Education.

By Delegate Dillon:

H. B. 2517 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-24, relating to the creation of the Medical Insurance Policy Owner's Notification Act"; to the Committee on Banking and Insurance then the Judiciary.

By Delegate Keaton:

H. B. 2518 - "A Bill to amend and reenact §19-37-2 of the Code of West Virginia, 1931, as amended, relating to providing a minimum percentage requirement of food from in-state producers for purposes of the West Virginia Fresh Food Act"; to the Committee on Agriculture and Natural Resources then Education.

By Delegates Foster, Smith, Horst, McGeehan, Phillips, Longanacre, Barnhart, Reynolds, Cooper, Jennings and Worrell:

H. B. 2519 - "A Bill to amend and reenact §33-4A-1 of the Code of West Virginia, 1931, as amended; and to repeal §33-4A-2, §33-4A-3, §33-4A-4, §33-4A-5, §33-4A-6, §33-4A-7, and §33-4A-8 of said code, all relating to termination of the All-payer Claims Database program; setting a date for termination of the program; terminating contracts with third-party vendors; requiring the safe deletion of data; and providing for the transfer of any remaining funds"; to the Committee on Government Organization then Finance.

By Delegates Reynolds, Barnhart, Cooper, Sheedy, Jeffries, W. Hall, Kelly, Zatezalo, Willis, Miller and Nestor:

H. B. 2520 - "A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to the waiver of all fees for special registration plates to the Gold Star next of kin of a member of any branch of the armed services of the United States killed in combat"; to the Committee on Technology and Infrastructure then Finance.

By Delegates Criss and Householder:

H. B. 2521 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-64, relating to establishing the Public/Private Small Business Enhancement Program to encourage small business development and growth"; to the Committee on Economic Development and Tourism then Finance.

By Delegate Foster:

H. B. 2522 - "A Bill To repeal §21-1C-1, §21-1C-2, §21-1C-3, §21-1C-4, §21-1C-5, and §21-1C-6 of the Code of West Virginia, 1931, as amended, relating to repealing the West Virginia Jobs Act"; to the Committee on Government Organization.

By Delegate Foster:

H. B. 2523 - "A Bill to amend and reenact §30-27-5 of the Code of West Virginia, 1931, as amended, relating to restricting the authority of the Board of Barbers and Cosmetologists to regulate the use of commonly available, retail beauty products"; to the Committee on Government Organization.

By Delegate Foster:

H. B. 2524 - "A Bill to repeal §23-2-1d of the Code of West Virginia, 1931, as amended, relating to prime contractors liability for subcontractors failure to make proper payments for workers' compensation coverage"; to the Committee on Workforce Development then the Judiciary.

By Delegate Foster:

H. B. 2525 - "A Bill to amend and reenact §8-13-13 of the Code of West Virginia, 1931, as amended, relating to charging fees for municipal services and prohibiting municipalities from assessing fees to people on the basis of employment within the municipal boundaries"; to the Committee on Political Subdivisions then the Judiciary.

**By Delegates Hanshaw (Mr. Speaker) and Skaff
[By Request of the Executive]:**

H. B. 2526 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §11-21-4g, §11-21-4h, and §11-21-4i, all relating to reducing the personal income tax; providing for reduced graduated income tax rates; reducing the rate of tax on composite returns; reducing the rate of withholding tax on nonresident income; reducing the rate of withholding tax on the nonresident sale of real estate; reducing the rate of withholding on gambling winnings; applying the rates retroactively to January 1, 2023; applying new rates on January 1, 2024 and January 1, 2025; and generally providing effective dates"; to the Committee on Finance.

The Speaker informed the House of the following two matters:

Bills and a resolution sponsored by Mr. McGeehan were introduced on yesterday, and there being no objection, the same were considered as formally introduced and referred as indicated on the electronic list from yesterday.

The following bills, introduced on yesterday, were erroneously referred to the Committee on Education, and there being no objections, the bills were reassigned to the Committee on Economic Development and Tourism:

H. B. 2030, WV Small Business COVID Relief Act,

H. B. 2043, Creating a Small Business and Minority Populations Economic and Workforce Development Taskforce,

H. B. 2050, West Virginia Economic Diversification Act,

H. B. 2052, Prohibit businesses from having licenses revoked for not requiring masks,

H. B. 2059, Amend the Rural Industrial Site Development Act,

H. B. 2060, Create special revenue fund for Infrastructure and Jobs Development Council,

H. B. 2061, Provide targeted business personal property tax relief in certain communities,

H. B. 2063, Provide a tax credit to distribution centers who build away from interstates and in more rural areas of West Virginia,

H. B. 2064, To create commercial opportunity zones to attract new businesses to West Virginia,

H. B. 2065, West Virginia Heavy Duty Truck Excise Tax Elimination Act,

And,

H. B. 2169, Provide valuation limitations to the Tax Commissioner for coal properties and to clarify the penalty for non-filers.

Miscellaneous Business

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

H. B. 2029: Delegate Foster;

H. B. 2113: Delegates Capito, Garcia, Ellington, Fast, Fluharty, Gearheart, Kimble, McGeehan, Skaff and Steele;

H. B. 2114: Delegates Clark, Crouse, Dean, Ellington, Honaker, Horst, Howell, Longanacre, Phillips and Summers;

H. B. 2172: Rick Hillenbrand;

H. B. 2188: Delegates Crouse; Kimble, Mazzocchi, Nestor, Phillips, C. Pritt and Worrell;

H. B. 2285: Delegate Horst;

And,

H. B. 2506: Delegates Espinosa and Riley.

At 11:10 a.m., the House of Delegates adjourned until 11:00 a.m., Friday, January 13, 2023.

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

SPECIAL CALENDAR

Friday, January 13, 2022

3rd Day

11:00 A. M.

(No Bills)

HOUSE CALENDAR

Friday, January 13, 2022

3rd Day

11:00 A. M.

(No Bills)

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, JANUARY 13, 2023

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON THE JUDICIARY
10:00 A.M. – ROOM 460-M**

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