

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE
REGULAR SESSION, 2023
TWENTY-SECOND DAY

Charleston, West Virginia, Wednesday, February 1, 2023

The Senate met at 11 a.m.

(Senator Trump in the Chair.)

Prayer was offered by Pastor Don Biram, Emmanuel Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Craig Blair, a senator from the fifteenth district.

Pending the reading of the Journal of Tuesday, January 31, 2023,

At the request of Senator Weld, 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 amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 128, Clarifying authority of Governor and Legislature to proclaim and declare state of emergency and preparedness.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-2. Definitions.

As used in this article:

(1) "Board" means the West Virginia Disaster Recovery Board created by this article;

(2) "Code" means the Code of West Virginia, 1931, as amended;

(3) "Community facilities" means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

(4) "Critical infrastructure" includes any systems and assets, whether physical or virtual, so vital to the state that the incapacity or destruction of such systems and assets would have a debilitating impact on security, state economic security, state public health or safety, or any combination of those matters.

(5) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

(6) "Disaster recovery activities" means activities undertaken prior to, during or following a disaster to provide, or to participate in the provision of, critical infrastructure, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

(7) "Emergency services" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and recover, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, critical infrastructure services, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

(8) "Essential business activities" means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or critical infrastructure services determined by the authority to be necessary for continued operations during a disaster, state of emergency, or state of preparedness, and for recovery from a disaster;

(9) "Essential workers" means employees or contractors that fall under the definition of essential business activities during a disaster, state of emergency, or state of preparedness.

(10) "House of worship" means a church, temple, synagogue, mosque, or other building or space set apart primarily for the purpose of worship, devotion, veneration or religious study;

(11) "Local organization for emergency services" means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;

(12) "Mobile support unit" means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

(13) "Person" means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

(14) "Political subdivision" means any county or municipal corporation in this state;

(15) "Recovery fund" means the West Virginia Disaster Recovery Trust Fund created by this article;

(16) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

(17) "Secretary" means the Secretary of the West Virginia Department of ~~Military Affairs and Public Safety~~ Homeland Security; and

(18) "State of emergency" means the duly proclaimed existence of, or the imminent existence of, conditions of disaster, or, of a serious threat to the safety of persons and property within West Virginia, such as an attack upon the state or the United States, a natural or man-made disaster of major proportions, or a large-scale threat beyond the capacity of local control.

(19) "State of preparedness" means those specialized planning and preparation activities intended to minimize any anticipated impact of a pending emergency initiated for the purpose of preserving and securing people or property from harm by utilization of any available governmental resources: *Provided*, That a state of preparedness may not be used to suspend or limit any government function or service to the public, including, but not limited to, closing public schools or governmental offices, nor to regulate or restrict any private state citizen's conduct, such as requiring evacuation of areas of the state or other like action, unless otherwise authorized by law; and

(20) "Temporary housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities that are incidental or appurtenant thereto.

§15-5-6. Emergency powers of Governor.

(a) The provisions of this section, and of any executive order issued pursuant to the provisions of this section, are operative only during the existence of a state of emergency or state of

preparedness. Nothing in this section may be construed to suspend or supersede any provision of the Constitution of West Virginia or the Constitution of the United States.

(1) ~~The existence of a state of emergency or state of preparedness~~ may be proclaimed by the Governor or by concurrent resolution of the Legislature if the Governor in the proclamation, or the Legislature in the resolution, finds that an attack upon ~~the state or the United States~~ has occurred or is ~~anticipated in the immediate future~~ imminent, or that a natural or man-made disaster of major proportions has actually occurred or is imminent within the state, or that an emergency exists or may be imminent due to a large-scale threat beyond local control, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section.

(2) The existence of a state of preparedness may be proclaimed by the Governor or by concurrent resolution of the Legislature, if the Governor in the proclamation, or the Legislature in the resolution, finds that an attack upon the state or the United States is anticipated in the immediate future, or that a natural or man-made disaster of major proportions is likely within the state or some portion thereof, or that an emergency may be likely due to a large-scale threat beyond local control, or that a major event necessitating cooperation between state and local authorities, or the federal government, is imminent, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section.

(b)(1) ~~Any state of emergency or state of preparedness~~, whether proclaimed by the Governor or by the Legislature, terminates upon the proclamation of the termination by the Governor, or the passage by the Legislature of a concurrent resolution terminating the state of emergency: ~~or state of preparedness~~ Provided, That in no case shall a state of preparedness emergency last longer than thirty 60 days, unless the Legislature, by passage of a concurrent resolution, shall extend the time period of the state of emergency: Provided, however, That such extension may be renewed, if necessary, by passage of a subsequent concurrent resolution of the Legislature. The Legislature may also condition, limit, terminate, or expand any action or directive made either by the proclamation of the Governor relating to the state of emergency or any executive order issued as a result of such proclamation. Upon proclamation by the Governor of a state of emergency, the Governor may call the Legislature into special session.

(2) Any state of preparedness, whether proclaimed by the Governor or by the Legislature, terminates upon the proclamation of the termination by the Governor, or the passage by the Legislature of a concurrent resolution terminating the state of preparedness: Provided, That in no case shall a state of preparedness last longer than 30 days, unless the Legislature by passage of a concurrent resolution, shall extend the time period of the state of preparedness: Provided however, That such extension may be renewed, if necessary, by passage of a subsequent concurrent resolution of the Legislature. The Legislature may also condition, limit, terminate, or expand any action or directive made either by the proclamation of the Governor relating to the state of preparedness or any executive order issued as a result of such proclamation. Upon proclamation by the Governor of a state of preparedness, the Governor may call the Legislature into special session.

(c) For the purposes of calculation of the length of time of the existence of a state of preparedness or state of emergency commenced according to the provisions of this section, when the Governor issues a proclamation declaring a state of preparedness or emergency, any subsequent proclamation that arises from the same circumstances that caused the issuance of the initial proclamation shall be treated as a continuation of the initial proclamation for that purpose, even if the prior proclamation, has, by its own terms, expired: Provided, That when a state of emergency follows a state of preparedness, and they arise from the same circumstances,

the total time allotted for the duration of the two states combined shall be no more than 60 days, unless the Governor follows the requirements for extending the state of emergency under subsection (b)(1) of this section.

(d) The Governor shall have the following delineated powers so long as a state of preparedness exists and which are intended to be strictly construed to authorize only those actions that are consistent with constitutional or statutory law, or with final orders of those courts of competent jurisdiction to which the Governor is subject: So long as a state of emergency or state of preparedness exists, the Governor has and may exercise the following additional emergency powers:

(1) To enforce all laws and rules relating to the provision of emergency services and to assume direct operational control of any or all emergency service forces and helpers in the state:

(2) To sell, lend, lease, give, or transfer state property, make purchases, or deliver materials or perform functions relating to emergency services on terms and conditions he or she prescribes and without regard to the limitations of any existing law and to account to the State Treasurer for any funds received for the property;

~~(3) To procure materials and facilities for emergency services by purchase, condemnation under the provisions of chapter fifty-four of this code or seizure pending institution of condemnation proceedings within thirty days from the seizing thereof and to construct, lease, transport, store, maintain, renovate or distribute the materials and facilities. Compensation for property so procured shall be made in the manner provided in chapter fifty-four of this code~~

(4) ~~(3)~~ To obtain the services of necessary personnel, required during the emergency, and to compensate them for their services from his or her contingent funds or other funds available to him or her;

~~(5) To provide and compel the evacuation of all or part of the population from any stricken or threatened area within the state and to take steps that are necessary for the receipt and care of the evacuees~~

~~(6) To control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area and the occupancy of premises therein~~

~~(7)~~ (4) To suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency: Provided, That nothing in this subdivision may be construed as granting the Governor the power to suspend any provisions of this section;

~~(8)~~ (5) To use available resources of the state and of its political subdivisions that are reasonably necessary to cope with the emergency;

~~(9)~~ (6) To suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles; Provided, That explosives and combustibles do not include firearms, ammunition, components of ammunition, or ammunition-reloading equipment and supplies;

~~(10)~~ (7) To make provision for the availability and use of temporary emergency housing; and

~~(14)~~ (8) To perform and exercise other functions, powers and duties that are necessary to promote and secure the safety and protection of the civilian population.

(e) In the event of the declaration of a state of emergency, the Governor shall have and may exercise all the preceding powers delineated in this section for use in a state of preparedness, as well as the following additional emergency powers which are intended to be strictly construed to authorize only those actions that are consistent with constitutional or statutory law, or with final orders of those courts of competent jurisdiction to which the Governor is subject:

(1) To procure facilities for emergency services by purchase, by condemnation under the provisions of Chapter 54 of this code, or by seizure pending institution of condemnation proceedings within 30 days from the seizing thereof, and to construct, lease, transport, store, maintain, renovate or distribute the materials and facilities. Compensation for property so procured shall be made in the manner provided in Chapter 54 of this code;

(2) To provide and compel the evacuation of all or part of the population from any stricken or threatened area within the state and to take steps that are necessary for the receipt and care of the evacuees; and

(3) To control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein.

~~(d)~~ (f) The declaration of a state of preparedness has the same effect as a declaration of a state of emergency for the purposes of the Emergency Management Assistance Compact established in §15-5-22 of this code and the Statewide Mutual Aid Systems set forth in §15-5-28 of this code.

(g) Any proclamation or resolution issued under this section must include, in general terms:

(1) A description of the nature of the disaster;

(2) A designation of the geographic area threatened; and

(3) A description of the conditions that have either:

(A) Caused the state of emergency or preparedness; or

(B) Made possible the termination of the state of emergency or preparedness.

Any such proclamation or resolution shall be disseminated as expediently as possible by means which are calculated to bring its contents to the attention of the general public and the Joint Committee on Government and Finance of the Legislature and, unless the circumstances attendant to the state of emergency or preparedness shall prevent or impede such filing, shall be promptly filed with the Secretary of State.

~~(e)~~ (h) The powers granted under this section do not authorize any action that would violate the prohibitions of §15-5-19a of this code.

(i) Any suit filed challenging an executive order issued relating to a state of preparedness or emergency pursuant to the authority granted in this section shall be limited to a petition for prohibition or mandamus pursuant to Rule 16 of the Rules of Appellate Procedure of the West

Virginia Supreme Court of Appeals. The provisions of §55-17-3 of this code are not applicable to any suit filed challenging an executive order issued pursuant to this section.

(j) Nothing in this section may be construed as to authorize the Governor to close or dictate religious practices in a house of worship during a state of preparedness or state of emergency.;

And,

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

Eng. Senate Bill 128—A Bill to amend and reenact §15-5-2 and §15-5-6 of the Code of West Virginia, 1931, as amended, all relating to the authority and obligations of the Governor and Legislature when in a declared state of preparedness and state of emergency; providing requirements for any proclamation or resolution issued relating to a state of preparedness or state of emergency; specifying new criteria for the duration and termination of a state of preparedness and state of emergency; clarifying the Legislature's authority to modify a state of preparedness or state of emergency; providing for the extension of a state of emergency and state of preparedness by concurrent resolution of the Legislature and specifying the duration of such extensions; specifying new criteria for the duration of the state of preparedness or state of emergency when any subsequent proclamation substantially relates to the same circumstances causing the issuance of the proclamation; specifying new criteria for the duration of the state of preparedness or state of emergency when a state of emergency follows a state of preparedness and they are substantially related to the same circumstances; defining terms; clarifying the emergency powers available to the Governor under a state of preparedness and a state of emergency; clarifying general terms required in a state of preparedness or state of emergency; and providing directives for lawsuits filed challenging actions taken pursuant to the authority granted herein.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 128) were reported by the Clerk, considered simultaneously, and adopted:

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

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-2. Definitions.

As used in this article:

(1) "Board" means the West Virginia Disaster Recovery Board created by this article;

(2) "Code" means the Code of West Virginia, 1931, as amended;

(3) "Community facilities" means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

(4) "Critical infrastructure" includes any systems and assets, whether physical or virtual, so vital to the state that the incapacity or destruction of such systems and assets would have a

debilitating impact on security, state economic security, state public health or safety, or any combination of those matters;

(5) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

(6) "Disaster recovery activities" means activities undertaken prior to, during or following a disaster to provide, or to participate in the provision of, critical infrastructure, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

(7) "Emergency services" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and recover, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, critical infrastructure services, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

(8) "Essential business activities" means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or critical infrastructure services determined by the authority to be necessary for continued operations during a disaster, state of emergency, or state of preparedness, and for recovery from a disaster;

~~"Essential workers" means employees or contractors that fall under the definition of essential business activities during a disaster, state of emergency, or state of preparedness~~

(9) "Local organization for emergency services" means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function functions;

(10) "Mobile support unit" means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

(11) "Person" means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

(12) "Political subdivision" means any county or municipal corporation in this state;

(13) "Recovery fund" means the West Virginia Disaster Recovery Trust Fund created by this article;

(14) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

(15) "Secretary" means the Secretary of the West Virginia Department of Military Affairs and Public Safety Homeland Security; and

(16) "State of emergency" means the duly proclaimed existence of conditions of disaster or other serious threat to the health or safety of persons and property within West Virginia, or a specific geographic area thereof, including but not limited to an attack upon the state or the United States, a natural or man-made disaster of major proportions, a pandemic, or other large-scale threat beyond the capacity of local control;

(17) "State of preparedness" means the duly proclaimed authorization for:

(A) Specialized planning and preparation activities intended to minimize the anticipated effect of conditions constituting a state of emergency, as defined in this section, which, in the judgment of the Governor, are expected to commence within the next 30 days, or within a period of longer than 30 days if necessary to obtain funding or maintain compliance with federal or interjurisdictional requirements: *Provided*, That a state of preparedness which is duly proclaimed under such circumstances shall be referred to as a "Class I state of preparedness"; or

(B) Specialized planning and preparation activities intended to minimize, by use of any available and appropriate federal or state governmental resources, the anticipated impact of or anticipated threats caused by a planned or anticipated event of such large size or scope that it is beyond the capacity of local control, and which is scheduled to commence within the next 30 days, or within a period of time longer than 30 days, if necessary to obtain funding or maintain compliance with federal or interjurisdictional requirements: *Provided*, That a state of preparedness which is duly proclaimed under such circumstances shall be referred to as a "Class II state of preparedness"; and

(18) "Temporary housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities that are incidental or appurtenant thereto.

§15-5-6. Emergency powers of Governor Proclamation of a state of emergency or state of preparedness by the Governor or the Legislature; additional powers of the Governor during a state of emergency or state of preparedness.

~~(a) The provisions of this section are operative only during the existence of a state of emergency or state of preparedness. The existence of a state of emergency or state of preparedness may be proclaimed by the Governor or by concurrent resolution of the Legislature if the Governor in the proclamation, or the Legislature in the resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural or man-~~

~~made disaster of major proportions has actually occurred or is imminent within the state, or that an emergency exists or may be imminent due to a large scale threat beyond local control, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section.~~

~~(b) Any state of emergency or state of preparedness, whether proclaimed by the Governor or by the Legislature, terminates upon the proclamation of the termination by the Governor, or the passage by the Legislature of a concurrent resolution terminating the state of emergency or state of preparedness: *Provided*, That in no case shall a state of preparedness last longer than thirty days.~~

~~(c) So long as a state of emergency or state of preparedness exists, the Governor has and may exercise the following additional emergency powers:~~

~~(1) To enforce all laws and rules relating to the provision of emergency services and to assume direct operational control of any or all emergency service forces and helpers in the state.~~

~~(2) To sell, lend, lease, give, transfer, or deliver materials or perform functions relating to emergency services on terms and conditions he or she prescribes and without regard to the limitations of any existing law and to account to the State Treasurer for any funds received for the property.~~

~~(3) To procure materials and facilities for emergency services by purchase, condemnation under the provisions of chapter fifty four of this code or seizure pending institution of condemnation proceedings within thirty days from the seizing thereof and to construct, lease, transport, store, maintain, renovate, or distribute the materials and facilities. Compensation for property so procured shall be made in the manner provided in chapter fifty four of this code.~~

~~(4) To obtain the services of necessary personnel, required during the emergency, and to compensate them for their services from his or her contingent funds or other funds available to him or her.~~

~~(5) To provide and compel the evacuation of all or part of the population from any stricken or threatened area within the state and to take steps that are necessary for the receipt and care of the evacuees.~~

~~(6) To control ingress and egress to and from a disaster area or an area where large scale threat exists, the movement of persons within the area and the occupancy of premises therein.~~

~~(7) To suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency.~~

~~(8) To use available resources of the state and of its political subdivisions that are reasonably necessary to cope with the emergency.~~

~~(9) To suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives, and combustibles; (10) To make provision for the availability and use of temporary emergency housing; and~~

~~(11) To perform and exercise other functions, powers and duties that are necessary to promote and secure the safety and protection of the civilian population.~~

~~(d) The declaration of a state of preparedness has the same effect as a declaration of a state of emergency for the purposes of the Emergency Management Assistance Compact established in section twenty two of this article and the Statewide Mutual Aid Systems set forth in section twenty eight of this article.~~

~~(e) The powers granted under this section do not authorize any action that would violate the prohibitions of section nineteen a of this article~~

(a) The provisions of this section, and any executive order issued pursuant to the provisions of this section, are operative only during the existence of a state of emergency or state of preparedness: *Provided*, That nothing in this section or in any executive order issued hereunder may be construed to suspend or supersede any provision of the United States Constitution or West Virginia Constitution.

(b) The existence of a state of emergency may be proclaimed by the Governor by executive order or by concurrent resolution of the Legislature if the Governor in the proclamation, or the Legislature in the concurrent resolution, finds that conditions warranting the proclamation of a state of emergency, as defined in this article, exist, and that the health, safety, and welfare of the inhabitants of this state require an invocation of the provisions of this section: *Provided*, That a gubernatorially proclaimed state of emergency expires 60 days after issuance of the executive order unless, prior to the 60th day, the Legislature adopts a concurrent resolution extending the state of emergency beyond 60 days. A concurrent resolution adopted by the Legislature to extend a state of emergency proclaimed by the governor shall set forth within its terms the length of time for which the state of emergency shall be extended. A state of emergency, whether proclaimed by the Governor or by the Legislature, terminates upon the issuance of a proclamation of termination by the Governor, or the passage by the Legislature of a concurrent resolution terminating the state of emergency.

(c) The existence of a state of preparedness may be proclaimed by the Governor by executive order or by concurrent resolution of the Legislature, if the Governor in the proclamation or the Legislature in the resolution, finds that conditions warranting the proclamation of a state of preparedness, as defined in this article, exist, and that the health, safety, and welfare of the inhabitants of this state require the invocation of the provisions of this section: *Provided*, That the Governor or the Legislature shall proclaim a state of preparedness as a "Class I state of preparedness" or a "Class II state of preparedness", as defined in this article, by law: *Provided however*, That a gubernatorially proclaimed state of preparedness expires 30 days after issuance of the executive order unless, prior to the 30th day, the Governor provides written notice to the President of the Senate, the Speaker of the House of Delegates and the Joint Committee on Government and Finance that, in his or her opinion, it is necessary to extend the state of preparedness. If the Governor extends the state of preparedness beyond 30 days he or she shall thereafter, no less frequently than every 30 days, provide the President of the Senate, the Speaker of the House of Delegates and the Joint Committee on Government and Finance with a written statement of his or her reasons for believing that the conditions warrant any continuation of the state of preparedness. The Governor shall provide a timely written response to any written inquiry from the President of the Senate, the Speaker of the House of Delegates or the Joint Committee on Government and Finance regarding the need for continuing the state of preparedness and the circumstances and facts supporting the continuation. A state of preparedness, whether proclaimed by the Governor or by the Legislature, terminates upon the issuance of a proclamation

of termination by the Governor, or the passage by the Legislature of a concurrent resolution terminating the state of preparedness.

(d) When a state of emergency follows a state of preparedness involving the same or substantially similar circumstances, the total time allotted for the duration of the two combined shall be no more than 90 days, unless the Governor follows the requirements for extending the state of emergency under subsection (b) of this section.

(e) Any proclamation or concurrent resolution issued under this section shall include, in general terms:

(1) A description of the facts and circumstances warranting the proclamation or concurrent resolution; and

(2) A designation of the geographic area threatened.

(f) Any proclamation or resolution shall be disseminated as soon as practicable to the news media and any other means which are calculated to bring its contents to the attention of the general public: *Provided*, That for a gubernatorial proclamation of a state of emergency or state of preparedness, the Governor shall provide a copy of the executive order to the President of the Senate, the Speaker of the House of Delegates, and the Joint Committee on Government and Finance.

(g) Under a duly proclaimed state of emergency or state of preparedness, the Governor has the following additional powers which are intended to be construed to authorize actions which are consistent with constitutional or statutory law, or with final orders of those courts of competent jurisdiction to which the Governor is subject:

(1) To enforce all laws and rules relating to the provision of emergency services and to assume direct operational control of any or all emergency service entities and personnel in the state;

(2) To sell, lend, lease, give, or transfer property, to make purchases, deliver materials or perform functions relating to emergency services on terms and conditions he or she prescribes without regard to the limitations of any existing law or being required to account to the State Treasurer for any funds received for the property;

(3) To procure materials and facilities for emergency services by purchase, condemnation under the provisions of §54-1-1 *et seq.* of this code, or seizure pending institution of condemnation proceedings within 30 days from the seizing thereof and to construct, lease, transport, store, maintain, renovate, or distribute the materials and facilities. Compensation for the procured property shall be made in the manner provided in §54-1-1 *et seq.* of this code;

(4) To obtain the services of necessary personnel required during the emergency or in preparation for the emergency, and to compensate such personnel for their services from the Governor's Contingent Fund or other funds available to him or her;

(5) To provide and compel the evacuation of all or part of the population from any stricken or threatened area within the state and to take steps that are necessary for the receipt and care of the evacuees;

(6) To control ingress and egress into or out of a disaster area or other area subject to a state of emergency or state of preparedness, as well as the movement of persons and occupancy of premises within the area;

(7) To suspend the provisions of any statute prescribing the procedures for the conduct of state business or the orders, or rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(8) To use available resources of the state and of its political subdivisions that are reasonably necessary to cope with the emergency or to prepare for the emergency;

(9) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles: *Provided*, That explosives and combustibles do not include firearms, ammunition, components of ammunition, or ammunition-reloading equipment and supplies;

(10) To make provision for the availability and use of temporary emergency housing; and

(11) To perform and exercise other functions, powers and duties that are necessary to promote and secure the safety and protection of the civilian population.

(h) The declaration of a state of preparedness has the same effect as a declaration of a state of emergency for the purposes of the Emergency Management Assistance Compact established in §15-5-22 of this code, and the Statewide Mutual Aid System set forth in §15-5-28 of this code.

(i) The powers granted under this section do not authorize any action that would violate the prohibitions of §15-5-19a of this code.

(j) During any state of preparedness or state of emergency proclaimed at any time, an executive order of the Governor may not:

(1) Close churches or other houses of worship or prevent their operation in any manner that is more restrictive than the least restrictive provisions in place for the operation of the most essential facilities of government or private enterprise.

(2) Suspend or limit the lawful sale, lawful transfer, or lawful transportation of firearms, ammunition, components of ammunition, or ammunition-reloading equipment and supplies; or

(3) Except as authorized by the provisions of this article, interfere with, or impair the operation of the news media.

(k) Unless expressly authorized by an executive order of the Governor, a municipal, county, or state health officer, under color of a duly proclaimed state of emergency or state of preparedness, shall not take any enforcement action which is not authorized by statute.

(l) Any suit filed challenging an executive order issued relating to a state of preparedness or emergency pursuant to the authority granted in this section shall be limited to a petition for a writ of prohibition or mandamus pursuant to Rule 16 of the Rules of the West Virginia Supreme Court of Appeals. The provisions of §55-17-3 of this code are not applicable to any suit filed challenging an executive order issued pursuant to this section.;

And,

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

Eng. Senate Bill 128—A Bill to amend and reenact §15-5-2 and §15-5-6 of the Code of West Virginia, 1931, as amended, all relating to states of emergency and preparedness; defining terms; clarifying the authority of the Governor and the Legislature to proclaim or declare states of emergency and preparedness; creating two classes of states of preparedness and establishing the criteria therefor; establishing the initial duration of gubernatorially proclaimed states of emergency and preparedness and the requirements for extending same; expanding and clarifying the powers of the Governor as to what he or she may order under proclamations of states of emergency and preparedness; expressly limiting the Governor's authority to order certain actions in an executive order issued pursuant to a proclamation or declaration of a state of emergency or preparedness; clarifying that the declaration of a state of preparedness has the same effect as a declaration of a state of emergency for the purposes of the Emergency Management Assistance Compact and the Statewide Mutual Aid System; and stating that the powers granted as to orders issued under states of emergency do not include the authority to limit the lawful possession and use of firearms and ammunitions.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 128, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the Chair declared the bill (Eng. S. B. 128) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Chair declared the bill (Eng. S. B. 128) takes effect from passage.

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

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

Eng. Senate Bill 132, Clarifying criminal offense of harassment.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Senate Bill 132—A Bill to amend and reenact §61-2-9a of the Code of West Virginia, 1931, as amended, relating to clarifying the criminal offense of harassment; and clarifying that stalking and harassment are separate crimes.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Senate Bill 132, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the Chair declared the bill (Eng. S. B. 132) passed with its House of Delegates amended title.

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

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 2436—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-20, relating to the implementation of an acuity-based patient classification system; defining terms; providing for legislative findings; establishing a process to develop a plan; requiring a staffing plan to be reported; providing an exemption from the Freedom of Information Act; and establishing a framework for the staffing plans to be sent.

Referred to the Committee on Health and Human Resources; 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 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.

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 2569—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-19-1, §20-19-2, §20-19-3, §20-19-4, §20-19-5, §20-19-6, and §20-19-7, all relating to establishing the Motorsport Responsibility Act; providing legislative findings; defining terms; setting forth duties of motorsport operators; setting forth duties of motorsport participants; setting forth the liability of motorsport operators; setting forth the liability of motorsport participants; and providing rule-making authority.

Referred to the Committee on Outdoor Recreation; 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. House Bill 2835—A Bill to repeal §18B-1-8b of the Code of West Virginia, 1931, as amended, relating to the repeal of an outdated section of code providing for the merger and consolidation of the West Virginia graduate college with Marshall University.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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 2850—A Bill to amend and reenact §18-20-1c of the Code of West Virginia, 1931, as amended, relating to students with exceptional needs; clarifying entitlements for the general education teacher who has students with exceptionalities in their classroom.

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. Com. Sub. for House Bill 2890—A Bill to amend and reenact §18A-5-1 of the Code of West Virginia, 1931, as amended, relating to authority of teachers and other school personnel for discipline of students; creating offence of behavior that is disruptive to classroom environment; teacher's responsibility to make a report after excluding student from classroom for certain offenses; excluding student from classroom for certain offenses and making exclusion an in-

school suspension; providing penalty for repeat offenses; providing permissible action in event of personality clash ; and requiring each county school board to implement a tier system policy, with teacher input, to provide a framework for student behaviors and punishments.

Referred to the Committee on Education.

The Senate proceeded to the fourth order of business.

Senator Weld, 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, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system.

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 the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-6A-12, relating to creating a multi-disciplinary study group to make recommendations regarding the diversion of persons with mental illness, developmental disabilities, substance abuse problems, and other disabilities from the criminal justice system; setting forth findings; listing the membership makeup of the study group; promoting appropriate interventions and placements for inmates and persons with disabilities; developing a plan to coordinate care, treatment, and placement for persons with disabilities in the criminal justice system and in the community; directing a report be made to Legislature on or before November 30, 2023; authorizing per diem expenses for nongovernmental members.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

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

Your Committee on Health and Human Resources has had under consideration

Senate Bill 242, Relating to residential substance use disorder service programs.

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

Com. Sub. for Senate Bill 242 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-9-2, relating to residential substance use disorder programs; defining terms; requiring the Office of the Inspector General to promulgate amendments to the Behavioral Health Centers Licensure Rule; setting forth stakeholders; setting forth services, supplies, screenings, and education to be made available, or made available by referral; setting

forth requirements to better monitor and improve quality outcomes; and providing for effective date.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill (Com. Sub. for S. B. 242), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 296, Uniform Public Meetings During Emergencies Act.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Senate Bill 448, Providing funding to Office of Oil and Gas for well inspections.

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

Com. Sub. for Senate Bill 448 (originating in the Committee on Energy, Industry and Mining)—A Bill to amend and reenact §11-13A-5a of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-6-2, §22-6-29, and §22-6A-7 of said code, all relating to funding the Office of Oil and Gas in the Department of Environmental Protection; dedicating a percentage of oil and gas severance taxes to Office of Oil and Gas; collecting annual fee assessed on producing wells; providing that in certain instances annual fees on producing wells may be transferred to the Oil and Gas Reclamation Fund; providing for payment of additional fee for expedited consideration of permit modification for horizontal wells; and eliminating the cap on collection of additional fees for expedited permits and expedited permit modifications paid to Gas Operating Permit and Processing Fund.

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,

Randy E. Smith,
Chair.

The bill (Com. Sub. for S. B. 448), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Health and Human Resources has had under consideration

Senate Bill 479, Expanding certain insurance coverages for pregnant women.

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

Com. Sub. for Senate Bill 479 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating to expanding certain insurance coverages for pregnant women; defining terms; requiring the Bureau for Medical Services to file a state plan amendment; defining services subject to state plan amendment; and providing an effective date.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill (Com. Sub. for S. B. 479), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Eng. House Bill 2506, Creating a title clearinghouse for non-resident businesses.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2506) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

The bill was read a second time and ordered to third reading.

Engrossed House Bill 2506 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of all the members present and voting having voted in the affirmative, the Chair declared the bill (Eng. H. B. 2506) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Chair declared the bill (Eng. H. B. 2506) takes effect from passage.

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

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 Chapman, Rucker, Taylor, Azinger, Deeds, Grady, Karnes, Martin, Maynard, Phillips, Smith, Swope, and Tarr:

Senate Bill 535—A Bill to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended, relating to creating religious and philosophical exemptions for school attendance vaccines.

Referred to the Committee on Health and Human Resources.

By Senators Phillips, Stuart, and Maynard:

Senate Bill 536—A Bill to amend and reenact §29-3E-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-3-14d and §33-3-33 of said code; and to amend and reenact §33-12C-7 of said code, all relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; defining terms; providing method of allocation and distribution for proceeds of fireworks safety fee deposited in the Fire Protection Fund; eliminating obsolete language; increasing surcharge on fire and casualty policies; providing method of allocation of policy surcharge; requiring the State Fire Marshal provide certain information to the State Treasurer; increasing tax on surplus lines policies; providing method of allocation of surplus lines policy tax; and clarifying requirements for distribution of funds in the Fire Protection Fund.

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

By Senator Woelfel:

Senate Bill 537—A Bill to amend and reenact §61-8B-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8B-5 of said code, all relating to eliminating the marital exception to criminal prosecution of sexual assault offenses.

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

By Senator Woodrum:

Senate Bill 538—A Bill to amend and reenact §6C-2-5, §6C-2-6, and §6C-2-8 of the Code of West Virginia, 1931, as amended, all relating to the appellate court for appeals of level three decisions issued by the Public Employees Grievance Board.

Referred to the Committee on the Judiciary.

By Senator Woodrum:

Senate Bill 539—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-22-4, relating to providing state and its political subdivisions with the ability and a process by which to negotiate a lower price for construction work when all bids received exceed the maximum budgeted amount.

Referred to the Committee on Government Organization.

By Senators Trump, Stover, Deeds, Chapman, Rucker, Hamilton, and Smith:

Senate Bill 540—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-32, relating to the creation of the misdemeanor offense of willfully urinating or defecating in public; creating an exception for public restrooms; establishing penalties; and clarifying that a person may be charged for the offense by citation.

Referred to the Committee on the Judiciary.

By Senators Stuart and Azinger:

Senate Bill 541—A Bill to amend and reenact §3-5-7 and §3-5-19 of the Code of West Virginia, 1931, as amended, all relating generally to election reforms; clarifying contents of certificate of announcement; clarifying timing of challenge to candidate qualifications; and limiting the authority of political parties to fill vacancies in nomination caused by voluntary withdrawal.

Referred to the Committee on the Judiciary.

By Senators Martin, Queen, and Karnes:

Senate Bill 542—A Bill to amend and reenact §11A-1-17 of the Code of West Virginia, 1931, as amended, relating to sheriff's commission for collection of taxes.

Referred to the Committee on Government Organization.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 6, US Army SGT Vincent DiBacco Memorial Bridge.

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

Senate Resolution 21, Designating February 1, 2023, as National Unclaimed Property Day at Legislature.

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

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

The question being on the adoption of the resolution, and on this question, Senator Blair (Mr. President) demanded the yeas and nays.

The roll being taken, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of those present and voting having voted in the affirmative, the Chair declared the resolution (S. R. 21) adopted.

Senate Resolution 22, Designating February 1, 2023, as Marshall University Day at Legislature.

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

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

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: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of those present and voting having voted in the affirmative, the Chair declared the resolution (S. R. 22) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Woelfel regarding the adoption of Senate Resolution 22 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 188, Grid Stabilization and Security Act of 2023.

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: Barrett, Boley, Caputo, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—28.

The nays were: Chapman, Phillips, and Smith—3.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of all the members present and voting having voted in the affirmative, the Chair declared the bill (Eng. Com. Sub. for S. B. 188) 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 240, Requiring state board of examination or registration proceedings to be open to public inspection.

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: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of all the members present and voting having voted in the affirmative, the Chair declared the bill (Eng. S. B. 240) 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 426, Banning use of certain products and platforms deemed unsafe or high risk on government systems.

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: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of all the members present and voting having voted in the affirmative, the Chair declared the bill (Eng. Com. Sub. for S. B. 426) passed with its title.

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

Eng. Com. Sub. for House Bill 2018, Permitting the managed care case coordinator to attend the multidisciplinary team meeting.

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: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of all the members present and voting having voted in the affirmative, the Chair declared the bill (Eng. Com. Sub. for H. B. 2018) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts,

Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Chair declared the bill (Eng. Com. Sub. for H. B. 2018) takes effect from passage.

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

Eng. House Bill 2029, Repealing the creation of an all-payer claims database.

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

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, a majority of all the members present and voting having voted in the affirmative, the Chair declared the bill (Eng. H. B. 2029) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Azinger, Hamilton, and Plymale—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Chair declared the bill (Eng. H. B. 2029) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 356, Authorizing DOT to promulgate legislative rules.

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

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

On page 2, section 2, lines 6 through 8, by striking out all of subsection (b).

The bill (Com. Sub. for S. B. 356), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

Com. Sub. for Senate Bill 205, Relating to registration plates.

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

Senate Bill 224, Establishing revocation of authority for spending by agency in support of challenge to WV law.

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

Com. Sub. for Senate Bill 250, Requiring level one permit holders to display student driver on rear of vehicle.

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

At the request of Senator Takubo, unanimous consent being granted, the bill was rereferred to the Committee on Transportation and Infrastructure.

Senate Bill 275, Adding State Fire Marshals to statute included with law enforcement and first responders that receive information on school safety requirements.

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

Com. Sub. for Senate Bill 294, Clarifying amount of deputy sheriff annual salary increase.

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

Com. Sub. for Senate Bill 345, Authorizing Department of Revenue to promulgate legislative rules.

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

Senate Bill 445, Repealing outdated section of WV code relating to WV Graduate College and Marshall University.

On first 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 with the unreported Education committee amendment to the bill pending.

Senate Bill 457, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises.

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

Com. Sub. for Senate Bill 461, Relating to WV public employees grievance procedure.

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

Com. Sub. for Senate Bill 463, Increasing validity of CDL instruction permit.

On first 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.

Com. Sub. for Senate Bill 472, Creating criminal offense of indecent exposure in front of minors.

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

Eng. House Bill 2564, Repeal of administrative hearing procedures for DUI offenses.

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

Eng. House Bill 2776, Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act.

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

Eng. House Bill 2777, Updating federal taxable income and other terms in the West Virginia Corporation Net Income Tax Act.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Tarr.

The Senate then proceeded to the thirteenth order of business.

The following communication was reported by the Clerk:

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211
1900 KANAWHA BLVD. EAST
CHARLESTON, WV 25305-0800
304-357-7800

February 1, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
State Capitol
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each house, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

S. B. 143 - Relating to Adopt-A-Stream Program.

And,

S. B. 231 - Transferring administration of WV Small Business Innovation Research and Small Business Technology Transfer Matching Funds Program to Department of Economic Development.

These bills are presented to you on this day, February 1, 2023.

Respectfully submitted,

A handwritten signature in blue ink, reading "Lee Cassis".

Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on January 31, 2023:

Senate Bill 492: Senator Taylor.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on January 31, 2023:

Senate Bill 9: Senator Maroney;

Senate Bill 157: Senator Maroney;

Senate Bill 158: Senator Maroney;

Senate Bill 190: Senator Maroney;

Senate Bill 196: Senator Maroney;

Senate Bill 198: Senator Maroney;

Senate Bill 201: Senator Maroney;

Com. Sub. for Senate Bill 209: Senator Maroney;

Senate Bill 280: Senator Taylor;

Senate Bill 468: Senator Taylor;

Senate Bill 469: Senator Taylor;

Senate Bill 479: Senator Caputo;

Senate Bill 492: Senator Karnes;

Senate Bill 517: Senator Rucker;

Senate Bill 520: Senators Deeds, Queen, and Barrett;

Senate Bill 521: Senators Woelfel, Caputo, Queen, and Barrett;

Senate Bill 523: Senator Caputo;

Senate Bill 524: Senator Deeds;

Senate Bill 526: Senators Woelfel, Deeds, Rucker, and Grady;

Senate Bill 527: Senators Caputo, Deeds, Smith, and Clements;

Senate Bill 529: Senator Barrett;

Senate Bill 531: Senator Barrett;

Senate Bill 532: Senators Smith, Karnes, and Grady;

Senate Bill 534: Senator Takubo;

Senate Concurrent Resolution 6: Senator Woelfel;

Senate Resolution 18: Senator Rucker;

And,

Senate Resolution 22: Senators Hamilton, Swope, Takubo, Rucker, and Grady.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:02 p.m., the Senate adjourned until tomorrow, Thursday, February 2, 2023, at 11 a.m.

SENATE CALENDAR

**Thursday, February 02, 2023
11:00 AM**

THIRD READING

Eng. Com. Sub. for S. B. 356 - Authorizing DOT to promulgate legislative rules

SECOND READING

Com. Sub. for S. B. 205 - Relating to registration plates (original similar to HB2565)

S. B. 224 - Establishing revocation of authority for spending by agency in support of challenge to WV law (original similar to SB239)

S. B. 275 - Adding State Fire Marshals to statute included with law enforcement and first responders that receive information on school safety requirements (original similar to HB2819)

Com. Sub. for S. B. 294 - Clarifying amount of deputy sheriff annual salary increase

Com. Sub. for S. B. 345 - Authorizing Department of Revenue to promulgate legislative rules

S. B. 457 - Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises

Com. Sub. for S. B. 461 - Relating to WV public employees grievance procedure

Com. Sub. for S. B. 472 - Creating criminal offense of indecent exposure in front of minors

Eng. H. B. 2564 - Repeal of administrative hearing procedures for DUI offenses (original similar to SB284)

Eng. H. B. 2776 - Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act (original similar to SB427)

Eng. H. B. 2777 - Updating federal taxable income and other terms in the West Virginia Corporation Net Income Tax Act (original similar to SB421)

FIRST READING

Com. Sub. for S. B. 232 - Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system

S. B. 296 - Uniform Public Meetings During Emergencies Act - (Com. amends. pending) (original similar to HB3146)

Com. Sub. for S. B. 463 - Increasing validity of CDL instruction permit (original similar to HB3032)

Eng. H. B. 2835 - Repeal outdated provisions of code relating to the West Virginia graduate college and Marshall University (original similar to SB445)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2023

Thursday, February 2, 2023

9 a.m.	Education	(Room 451M)
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9 a.m.	Government Organization	(Room 208W)
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Friday, February 3, 2023

11:30 a.m.	Finance	(Room 451M)
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