

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

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

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Charleston, West Virginia, Monday, February 6, 2023

The Senate met at 11 a.m.

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

Prayer was offered by the Honorable Bill Hamilton, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Rollan A. Roberts, a senator from the ninth district.

Pending the reading of the Journal of Friday, February 3, 2023,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 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, firearm accessory or component, 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 Commissioner of Financial Institutions to enforce requirements subject to certain limitations; 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.

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 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; providing definitions; providing that allopathic and osteopathic physicians may not provide irreversible gender reassignment surgery or gender altering medication as defined herein to a person who is under eighteen years of age; and providing criteria for certain limited exceptions to this rule.

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 2008**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-15-1, §15-15-2, §15-15-3, §15-15-4, §15-15-5, §15-15-6, §15-15-7, §15-15-8, §15-15-9, §15-15-10, and §15-15-11, all relating to requiring state entities, local entities and law enforcement agencies to cooperate with the enforcement of immigration laws; providing for definitions; requiring that entities and agencies not prohibit the enforcement of immigration laws or cooperation with other governmental agencies to enforce immigration laws; providing for complaint procedures; providing for mandatory duties regarding immigration detainees; providing for actions to ensure compliance; providing for ineligibility for state funds; providing for rulemaking authority for the State Auditor; providing for mandatory agreements; providing for the Attorney General to defend good-faith compliance under certain circumstances; providing for a civil cause of action for damages; providing for a duty to report and Whistle-Blower protections; providing for prohibiting discrimination; and providing for severability.

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 2380**—A Bill to repeal §18-9D-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-9A-10 of said code; and to amend and reenact §18-9D-2, §18-9D-3, §18-9D-4, §18-9D-6, §18-9D-7, §18-9D-8, §18-9D-9, §18-9D-13, §18-9D-15, and §18-9D-19 of said code, all relating to removing or revising obsolete, outdated, antiquated, inoperative, surplus or superseded provisions relating to defining terms; allowing funding directly to school construction fund instead of through school aid formula; removing references to regional education service agencies; removing authority to issue general obligation bonds; closing capital improvements fund and transferring funding to school construction fund; requiring authority to request appropriation; repealing authority to offer higher education savings

plans; providing purposes and revenue sources for other funds and use of use of proceeds of bonds; and removing findings related to comprehensive high schools.

.Referred to the Committee on Education.

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

**Eng. Com. Sub. for House Bill 2443**—A Bill to amend and reenact §18A-4-8 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new section, designated §18A-4-23, relating to providing minimum experience requirement for director or coordinator of services class title involving school transportation; providing eligibility for candidates for professional employee positions involving supervision of a county transportation department; making any service employee who is certified as a Director or Supervisor of Pupil Transportation by the National Association for Pupil Transportation Certification; and requiring county boards to consider such candidates.

Referred to the Committee on Education.

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

**Eng. House Bill 2768**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-27, relating to requiring all Chapter 30 boards and state entities to utilize ".gov" website domains and e-mail addresses in order to clearly identify such entities and boards as official government entities.

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

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

**Eng. House Bill 2941**—A Bill to amend and reenact §18B-1D-11 of the Code of West Virginia, 1931, as amended, relating to extending the sunset date of the State Advisory Council on Postsecondary Attainment Goals.

Referred to the Committee on Education.

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

**Eng. Com. Sub. for House Bill 3091**—A Bill to amend and reenact §6-9B-1, §6-9B-3, and §6-9B-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §6-9B-5 and §6-9B-6, all relating to requiring certain entities to provide information to the State Auditor for inclusion on the financial transparency website; requiring government agencies and counties to provide certain information to the State Auditor; providing that certain county financial information is to be included on the financial transparency website; requiring the State Auditor to make counties' financial information publicly available on the financial transparency website; requiring counties to submit certain financial information to the State Auditor; setting forth the information that counties are required to send; specifying when the information must be sent; requiring the State Auditor to publicly identify any county that fails to

comply with certain requirements; granting the State Auditor the authority to promulgate legislative rules to implement the provisions of this article.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

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

Your Committee on Education has had under consideration

**Senate Bill 216**, Requiring all schools to instruct students on Holocaust and other genocides.

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

**Com. Sub. for Senate Bill 216** (originating in the Committee on Education)—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to requiring all schools to instruct students on the Holocaust, other genocides, and financial literacy.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Amy N. Grady,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 495**, Providing correctional institutions and juvenile facilities video and audio records be confidential.

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

**Com. Sub. for Senate Bill 495** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15A-4-8a of the Code of West Virginia, 1931, as amended, relating generally to correctional institutions and juvenile facilities; deeming certain video and audio recordings records and reports to be confidential; creating exceptions to confidentiality; requiring court or administrative tribunal orders directing disclosure to contain a provision limiting disclosure to the purposes necessary to the proceeding and prohibiting unauthorized use and publication; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senator Trump:**

**Senate Bill 563**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §26-12-1, relating to whistleblower protections for workers at state health care facilities who report unsafe patient care or unsafe patient conditions.

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

**By Senator Tarr:**

**Senate Bill 564**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-4h, relating to authorizing the Public Service Commission of West Virginia to consider and authorize the recovery of certain costs by certain utilities through the issuance of consumer rate relief bonds; providing legislative findings; providing definitions; providing application process for financing order authorizing the recovery of certain costs; requiring certain information in application for financing order; providing for issuance of financing order and information contained therein; allowing for disposition of consumer rate relief property; providing for the effect and term of financing order; providing for subsequent Public Service Commission proceedings and limits on commission authority; providing for duties of certain utilities; providing for application of adjustment mechanism and filing of schedules with commission; providing for nonbypassability of consumer rate relief changes; providing consequences and procedures for utility default; providing for requirements and obligations of successors to certain utilities; providing for security interest in consumer rate relief property and transfer and sale of same; providing for limitation on taxation of consumer rate relief charges and exemption thereto; providing that consumer rate relief bonds are not debt of governmental entities or a pledge of taxing power; providing utility consumer rate relief bonds as legal investment; providing for certain pledge of state; providing for governing law; providing for severability and non-utility status; requiring that utilities must obtain consent and approval from the Public Service Commission prior to retiring, abandoning, closing, or otherwise permanently rendering incapable of operating certain plants or units; and providing for continued viability of certain bonds.

Referred to the Committee on Finance.

**By Senators Hunt, Azinger, Barrett, Chapman, Clements, Deeds, Hamilton, Jeffries, Karnes, Maroney, Martin, Maynard, Oliverio, Phillips, Queen, Roberts, Rucker, Smith, Stover, Stuart, Taylor, and Woodrum:**

**Senate Bill 565**—A Bill to amend the code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, and §5-30-5, all relating to discrimination by financial institutions against people and businesses engaged in lawful firearms and ammunition sales and manufacture; creating the Firearms Industry Nondiscrimination Act; legislative findings; providing definitions; prohibiting certain acts of discrimination related to firearm sales and manufacture; providing for civil causes of action; and giving enforcement powers to the attorney general.

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

**By Senator Maroney:**

**Senate Bill 566**—A Bill to amend and reenact §16-5CC-3 of the Code of West Virginia of 1931, as amended, relating to extend the termination date of the West Virginia Advisory Council on Rare Diseases.

Referred to the Committee on Health and Human Resources.

**By Senator Stuart:**

**Senate Bill 567**—A Bill to amend and reenact §16-5V-2 of the Code of West Virginia, 1931, as amended, relating to defining and amending terms related to a "participating public employer".

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

**By Senators Trump, Deeds, Hunt, Rucker, Stover, Stuart, Taylor, and Woelfel:**

**Senate Bill 568**—A Bill to amend and reenact §27-6A-13 of the Code of West Virginia, 1931, as amended, relating generally to the Dangerousness Assessment Advisory Board; clarifying the board's primary purpose; declaring that the Secretary of the Department of Health and Human Services has no supervisory authority over the board; and authorizing the board, in its discretion, to assist.

Referred to the Committee on the Judiciary.

**By Senator Weld:**

**Senate Bill 569**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, and §11-13MM-6, all relating to creating the Rehabilitation of Blighted Properties Tax Credit Act; providing for a credit against state corporate net income taxes and personal income taxes; providing for carryback and carryforward of certain tax credits; providing for the allowance of certain tax credits in specific taxable years; providing for the application of certain tax credits; providing definitions; and authorizing rulemaking.

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

**By Senator Stover:**

**Senate Bill 570**—A Bill to amend and reenact §20-18-5 and §20-18-6 of the Code of West Virginia, 1931, as amended, all relating to Natural Resources Police Officer Retirement; providing for supplemental funding of the West Virginia Natural Resources Police Officer Retirement System; and providing for additional recruitment and retention opportunities of Natural Resources Police Officers.

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

**By Senator Barrett:**

**Senate Bill 571**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22D-25, relating to amend the regulation of fantasy gaming competitions and implementation of sports wagering by allowing the West Virginia State Lottery Commission to accredit independent evaluators to audit and opine on the sports betting content directly or indirectly affiliated with mobile sports wagering licensees.

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

**By Senators Maynard, Deeds, Stover, Taylor, and Trump:**

**Senate Bill 572**—A Bill to amend and reenact §8-12-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §55-7-32, all

relating to codifying the common law cause of action of public nuisance in a manner consistent with its originally intended and historical applications.

Referred to the Committee on the Judiciary.

**By Senator Maroney:**

**Senate Bill 573**—A Bill to amend and reenact §48-1-205, of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-13-301, §48-13-303, §48-13-403, §48-13-404, and §48-13-501 of said code, all relating generally to the child support guidelines and the Support Enforcement Commission; clarifying circumstances for attributed income; updating monthly basic child support obligations to reflect 2022 financial data; updating income amount requiring manual calculation to determine basic child support obligation; updating amount for the ability to pay calculation and self-support reserve; and amending the multiplier for extended shared parenting adjustment.

Referred to the Committee on the Judiciary.

**By Senators Smith, Karnes, Rucker, and Taylor:**

**Senate Bill 574**—A Bill to amend and reenact §3-5-5 of the Code of West Virginia, 1931, as amended, relating to the nomination and election of candidates for U.S. Congress; setting forth legislative findings and purpose; defining terms; setting forth residency requirements for candidacy; establishing early filing window for candidates; authorizing the Secretary of State to investigate the validity of candidate's residency; providing for legal standing and defense of statute; and setting forth rule-making authority and penalties.

Referred to the Committee on the Judiciary.

Senator Clements offered the following resolution:

**Senate Concurrent Resolution 7**—Amending Joint Rules of the Senate and House of Delegates.

Which, under the rules, lies over one day.

Senator Weld offered the following resolution:

**Senate Resolution 25**—Designating February 7, 2023, as Sexual Assault Awareness Day at the Legislature.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Resolution 24**, Designating February 6, 2023, as Domestic Violence Awareness Day in WV.

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 and adopted.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 232**, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system.

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, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Azinger—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 232) 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, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Azinger—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 232) takes effect from passage.

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

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

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, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Azinger—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 463) passed with its title.

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

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

On third reading, coming up in regular order, with the right having been granted on February 2, 2023, for amendments to be received on third reading, 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, with the right to amend on third reading remaining in effect.

**Eng. House Bill 2835**, Repeal outdated provisions of code relating to the West Virginia graduate college and Marshall University.

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, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Azinger—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2835) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 50**, Requiring one-year residency within district or county to fill vacancy in Legislature.

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

**Com. Sub. for Senate Bill 247**, Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act.

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

**Senate Bill 296**, Uniform Public Meetings During Emergencies Act.

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

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendments to the bill were withdrawn.

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

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

**ARTICLE 9C. UNIFORM PUBLIC MEETINGS DURING EMERGENCIES ACT.**

**§6-9C-1. Short title.**

This article may be cited as the Public Meetings During Emergencies Act.

**§6-9C-2. Definitions.**

In this article:

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Emergency" means an event or condition that is an emergency, disaster, or public health emergency as addressed in §15-5-2 and §15-5-6 of this code.

"Emergency declaration" means a declaration of emergency issued by a person or agency authorized to do so under §15-5-6 of this code and that is in effect.

"Meeting" has the same definition as in §6-9A-2 of this code.

"Person" has the same definition as in §6-9A-2 of this code. The term does not include a public corporation, government or governmental subdivision, agency, or instrumentality.

"Public agency" has the same definition as in §6-9A-2 of this code, however, for purposes of this article, it does not include the Legislature.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Virtual meeting" or "virtually" means a meeting of a public agency or any part thereof, at which some or all of the members of the public agency participate wholly or partly by electronic means.

**§6-9C-3. Virtual meetings.**

(a) A public agency may meet virtually during an emergency that is the subject of an emergency declaration if otherwise permitted by law, or all or part of the jurisdiction of the public agency is subject to the emergency declaration; and the person authorized by law or by rule of the public agency to act for the public agency determines that due to the emergency it would not be practical or prudent for the public agency to meet physically or if the emergency declaration prohibits physical meetings.

(b) If a virtual meeting of a public agency authorized by §6-9C-3(a) of this code complies with the requirements of §6-9C-4, §6-9C-5, and §6-9C-6 of this code, then any action taken at a virtual meeting has the same legal force and effect as an action taken at a physical meeting of the public agency. All other laws of the state that apply to a physical meeting of a public agency shall, to the extent practicable and not inconsistent with a virtual meeting, apply to a virtual meeting of the public agency.

**§6-9C-4. Authorization for virtual meeting.**

(a) A public agency may conduct a virtual meeting while an emergency declaration is in effect that applies to all or part of the jurisdiction of the public agency if:

(1) The emergency declaration prohibits, limits, or has the effect of prohibiting or limiting an in-person meeting of the public agency; or

(2) The presiding officer of the public agency or other individual authorized to act for the public agency determines it is not practical or prudent for the public agency to conduct an in-person meeting because of the emergency; and

(A) Communicates to the members of the public agency that the meeting shall be a virtual meeting; and

(B) Takes reasonable steps to inform members of the public that the meeting shall be a virtual meeting.

**§6-9C-5. Conduct of virtual meeting.**

(a) A public agency shall, to the extent practicable, select a means to conduct a virtual meeting that is compatible with assistive technology commonly used by individuals with disabilities and that facilitates the accommodation needs of individuals with disabilities to access the meeting.

(b) Except as provided in §6-9C-5(c) or §6-9C-5(d) of this code, the means used to conduct a virtual meeting shall permit each member of the public agency who attends the meeting to see and hear during the meeting and to be seen and heard by, the other members of the public agency who attend the meeting.

(c) If a member of a public agency is unable to obtain visual access to the virtual meeting but is able to obtain audio access that permits the member, during the meeting, to hear and be heard by the other members of the public agency who attend the meeting, the member may attend by audio access.

(d) If a public agency lacks the capacity to provide contemporaneous visual access to a virtual meeting for members of the public agency, the public agency may conduct the meeting by audio-only access that permits each member of the public agency who attends the meeting, to hear and be heard during the meeting by the other members of the public agency who attend the meeting.

(e) A member of a public agency who attends a virtual meeting is considered present for all purposes, including for determination of a quorum and voting, if during the meeting, the member may:

(1) For a meeting conducted in compliance with §6-9C-5(b) of this code, see and hear and be seen and heard by the other members of the public agency who attend; or

(2) For a meeting conducted in compliance with §6-9C-5(c) or (d) of this code, may hear and be heard by the other members of the public agency who attend.

(f) A member of a public agency who attends a virtual meeting through electronic means that provide audio-only access to the meeting shall state the member's name each time the member speaks. Failure by a member to state the member's name does not invalidate an action taken at the virtual meeting.

(g) A vote taken at a virtual meeting shall be by a process that identifies how each member of the public agency votes.

(h) The minutes of a virtual meeting shall include any vote taken, that the meeting was conducted by electronic means, the technology used, and which members of the public agency attended by electronic means.

#### **§6-9C-6. Public observation.**

(a) If the open meetings law requires that the public be able to observe all or part of a meeting of a public agency in real time:

(1) The public agency shall permit the public to observe a virtual meeting or the part of the virtual meeting that would be required to be open to the public if it were part of an in-person meeting; and

(2) The public agency shall provide the technological means to allow the members of the public who observe the virtual meeting to see and hear or, if the public agency conducts the meeting by audio-only access under §6-9C-5(d) of this code, to hear any members of the public authorized by the public agency to speak in the meeting.

(b) A document, exhibit, or other record presented to a public agency at a virtual meeting that, under the open meetings law, would have been available to the public at an in-person meeting, including members of the public observing or participating in a virtual meeting under §6-9C-7 of this code, shall be made available to the public at the same time as the virtual meeting to the extent practicable.

#### **§6-9C-7. Public participation.**

(a) If a law of this state or a political subdivision of the state or a rule, practice, or procedure adopted by the public agency requires that members of the public be permitted to participate in a meeting of the public agency, the public agency to the extent practicable shall permit members of the public to participate in a virtual meeting, subject to the conditions that apply at an in-person meeting of the public agency.

(b) If members of the public are permitted to speak at a virtual meeting, the technology used to conduct the meeting shall permit the members of the public agency and members of the public attending the meeting to hear the members of the public who speak at the meeting.

(c) If a public agency considers at a virtual meeting a matter affecting the right or interest of a person entitled by other law of the state or a political subdivision of this state or by rule of the public agency to participate, present evidence, or examine or cross-examine witnesses at an in-person meeting, the public agency shall permit the person to use the same technology that the public agency uses to conduct the virtual meeting, or provide equivalent access, to attend the meeting and present evidence, or examine or cross-examine witnesses in the meeting.

(d) If a person to which §6-9C-7(c) of this code applies objects that the virtual meeting does not allow the person to effectively protect the right or interest referred to in §6-9C-7(c) of this code, the public agency shall consider the objection and may proceed with the matter at a virtual meeting if the agency determines that the virtual meeting will allow the person to effectively protect the right or interest. The determination and the reason for the determination shall be stated in a record.

#### **§6-9C-8. Notice.**

(a) In addition to any other requirement concerning notice, a public agency, for a meeting of the public agency, shall give notice of a virtual meeting and shall specify that the meeting will be a virtual meeting and the technology that will be used for the virtual meeting.

(b) Notice of a virtual meeting shall specify how:

(1) Members of the public may observe the meeting in real time pursuant to §6-9C-6 of this code;

(2) Members of the public permitted to participate, present evidence, or examine or cross-examine witnesses at the meeting pursuant to §6-9C-7 of this code may do so;

(3) A member of the public may alert the public agency of a technical or quality problems that prevents the member from accessing the meeting; and

(4) A member of the public with a disability may request a reasonable accommodation to access the meeting.

#### **§6-9C-9. Procedural rules.**

A public agency may adopt rules for conducting a virtual meeting under this article, comparable to rules for conducting an in-person meeting of the public agency. The rules may include:

(1) The means by which the public agency will inform members of the public that a virtual meeting will be held;

(2) The effect of a technical or quality problems that interferes with meeting or access to a meeting by a member of the public agency or the public;

(3) The means by which a record considered at a meeting is made available to the public agency and, if required by other law, the public;

(4) The means for access to a meeting by an individual with a disability; and

(5) The process by which a person may object under §6-9C-7 of this code to the conduct of a meeting on the ground that the procedure denies the person due process of law.

#### **§6-9C-10. Electronic Signatures in Global and National Commerce Act.**

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, but does not modify, limit, or supersede Section 101(c)

of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. § 7003(b).

The bill (S. B. 296), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 361**, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

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

**Com. Sub. for Senate Bill 475**, Modifying examinations for disability pensions.

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

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 295**, Extending time that prescription for spectacles remains valid.

**Com. Sub. for Senate Bill 299**, Relating to crime of trespass generally.

**Com. Sub. for Senate Bill 300**, Relating to law-enforcement training and certification.

**Com. Sub. for Com. Sub. for Senate Bill 419**, Establishing standards for licensure of military trained applicants.

**Senate Bill 449**, Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools.

**Com. Sub. for Senate Bill 450**, Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board.

**Com. Sub. for Senate Bill 451**, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System.

**Senate Bill 465**, Increasing limit on moneys placed in county's rainy day fund.

**Senate Bill 489**, Requiring BOE provide free feminine hygiene products in certain grades.

**Com. Sub. for Senate Bill 514**, Clarifying procedure for administrative dissolution of corporations by Secretary of State.

And,

**Eng. House Bill 2800**, All relating to authorizing legislative rules regarding higher education.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Stuart and Woelfel.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Caputo, unanimous consent being granted, it was ordered that the Journal show had Senator Caputo been present in the chamber on Friday, February 3, 2023, he would have voted "yea" on the passage of Engrossed Committee Substitute for Senate Bill 205, Engrossed Senate Bill 275, Engrossed Committee Substitute for Senate Bill 294, Engrossed Committee Substitute for Senate Bill 345, Engrossed Senate Bill 457, Engrossed House Bill 2564, Engrossed House Bill 2776, and Engrossed House Bill 2777 and "nay" on the passage of Engrossed Committee Substitute for Senate Bill 461.

The following communications were 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 3, 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 bill, 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, has been examined and found truly enrolled:

**S. B. 132** - Clarifying criminal offense of harassment.

This bill is presented to you on this day, February 3, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lee Cassis".

Lee Cassis  
Clerk of the Senate

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

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 6, 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:

**Com. Sub. for S. B. 83** - Authorizing tactical medical professionals to carry firearms.

**And,**

**S. B. 207** - Relating to state allocation of funding to regional councils.

These bills are presented to you on this day, February 6, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "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 February 3, 2023:

**Senate Bill 535:** Senator Grady.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on February 3, 2023:

**Senate Bill 26:** Senator Oliverio;

**Senate Bill 40:** Senator Oliverio;

**Senate Bill 52:** Senator Smith;

**Senate Bill 76:** Senator Smith;

**Com. Sub. for Senate Bill 80:** Senator Smith;

**Senate Bill 101:** Senator Smith;

**Senate Bill 225:** Senator Smith;

**Senate Bill 483:** Senator Nelson;

**Senate Bill 490:** Senator Nelson;

**Senate Bill 495:** Senators Deeds and Rucker;

**Senate Bill 497:** Senator Nelson;

**Senate Bill 498:** Senator Hunt;

**Senate Bill 521:** Senator Nelson;

**Senate Bill 526:** Senator Nelson;

**Senate Bill 546:** Senators Taylor, Maynard, and Martin;

**Senate Bill 555:** Senators Rucker, Hamilton, and Deeds;

**Senate Bill 556:** Senator Deeds;

**Senate Bill 558:** Senator Woelfel;

**Senate Bill 559:** Senator Deeds;

**Senate Bill 562:** Senators Plymale and Clements;

**Senate Joint Resolution 10:** Senator Maynard;

And,

**Senate Resolution 24:** Senators Woelfel, Plymale, Hamilton, Deeds, and Smith.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:30 a.m., the Senate adjourned until tomorrow, Tuesday, February 7, 2023, at 11 a.m.

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## **SENATE CALENDAR**

**Tuesday, February 07, 2023  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 7 - Amending Joint Rules of Senate and House of Delegates

S. R. 25 - Designating February 7, 2023, as Sexual Assault Awareness Day at Legislature

### **THIRD READING**

Eng. Com. Sub. for S. B. 50 - Requiring one-year residency within district or county to fill vacancy in Legislature

Eng. Com. Sub. for S. B. 247 - Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act

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

Eng. Com. Sub. for S. B. 361 - Authorizing miscellaneous boards and agencies to promulgate legislative rules

Eng. Com. Sub. for S. B. 472 - Creating criminal offense of indecent exposure in front of minors - (With right to amend)

Eng. Com. Sub. for S. B. 475 - Modifying examinations for disability pensions (original similar to HB3243)

### **SECOND READING**

Com. Sub. for S. B. 295 - Extending time that prescription for spectacles remains valid

Com. Sub. for S. B. 299 - Relating to crime of trespass generally

Com. Sub. for S. B. 300 - Relating to law-enforcement training and certification

Com. Sub. for Com. Sub. for S. B. 419 - Establishing standards for licensure of military trained applicants

S. B. 449 - Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools (original similar to HB3235)

Com. Sub. for S. B. 450 - Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board (original similar to HB3234)

Com. Sub. for S. B. 451 - Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System (original similar to HB3236)

S. B. 465 - Increasing limit on moneys placed in county's rainy day fund

S. B. 489 - Requiring BOE provide free feminine hygiene products in certain grades - (Com. title amend. pending)

Com. Sub. for S. B. 514 - Clarifying procedure for administrative dissolution of corporations by Secretary of State

Eng. H. B. 2800 - All relating to authorizing legislative rules regarding higher education - (Com. amend. pending)

### **FIRST READING**

Com. Sub. for S. B. 216 - Requiring all schools to instruct students on Holocaust, other genocides and financial literacy

Com. Sub. for S. B. 495 - Providing correctional institutions and juvenile facilities video and audio records be confidential

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2023**

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**Tuesday, February 7, 2023**

9 a.m.	Education	(Room 451M)
9 a.m.	Government Organization	(Room 208W)