

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE
REGULAR SESSION, 2023
THIRTHIETH DAY

Charleston, West Virginia, Thursday, February 9, 2023

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Philip Mullins, Student Minister, Gateway Christian Church, St. Albans, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Chandler Swope, a senator from the sixth district.

Pending the reading of the Journal of Wednesday, February 8, 2023,

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

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

The 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 241, Relating to Patient Brokering Act.

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:

On page 2, line 27, by striking subsection (c) in its entirety and inserting a new subsection (c) to read as follows:

(c) The Office of the Inspector General shall develop a tool that facilitates the submission of complaints. The Office of the Inspector General shall investigate complaints and enforce the provisions of this article.;

And,

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

Eng. Senate Bill 241—A Bill to amend and reenact §16-62-2 of the Code of West Virginia, 1931, as amended, relating to patient brokering; requiring a state agency to regulate patient brokering; and requiring the development of a tool to facilitate complaints.

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

Engrossed Senate Bill 241, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Chapman and Stover—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 241) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Chapman and Stover—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 241) takes effect from passage.

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

The Senate proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

Senate Bill 31, Relating to permissible expenditures by Water Development Authority from Infrastructure Fund.

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

Com. Sub. for Senate Bill 31 (originating in the Committee on Finance)—A Bill to amend and reenact §31-15A-17c of the Code of West Virginia, 1931, as amended, relating to permissible expenditures by the Water Development Authority from the Infrastructure Fund; modifying the upper limit of funds which may be transferred in to subaccount; raising the cap on total project costs for certain facilities for use of Critical Needs and Failing Systems Sub Account funding; and allowing the authority to grant infrastructure grant money from the Critical Needs and Failing Systems Sub Account to certain projects for the upgrading of a water facility or wastewater facility to reduce maintenance costs, operations costs, or waterline leakages.

And,

Senate Bill 478, Relating to Jumpstart Savings Program.

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

Com. Sub. for Senate Bill 478 (originating in the Committee on Finance)—A Bill to amend and reenact §11-21-12m and §11-21-25 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-24-10a of said code, to amend and reenact §18-30-3 of said code; and to amend and reenact §18-30A-3, §18-30A-10, §18-30A-11, and §18-30A-13 of said code, all relating generally to the Jumpstart Savings Program; clarifying that the entire amount of an account distribution used for certain qualified expenses is subject to reducing personal income tax modification; clarifying that the amount of an account distribution is only subject to reducing personal income tax modification to the extent that the amount is not allowable as certain federal deductions; establishing an increasing personal income tax modification for account distributions used for nonqualified expenses and previously applied toward the reducing personal income tax modification for account contributions; defining terms; providing that an employer may not claim a tax credit for matching contributions to an account if the employer is the account owner or account beneficiary; providing that an employer may not claim both the reducing personal income tax modification and the matching credit for an amount contributed to an employee's account; permitting employers to claim matching credit for certain amounts allowable as federal tax deductions; eliminating a definition related to an obsolete account; defining terms; expanding the occupations and professions in which an individual may incur qualified expenses; eliminating the minimum deposit required to open an account and for certain opening incentive deposits; authorizing the board to establish a minimum deposit to open an account or for certain opening incentive deposits; establishing retroactive internal effective date of January 1, 2023, for certain provisions; and making technical and clarifying corrections to reporting requirements.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Education has had under consideration

Senate Bill 99, Relating to meetings among county boards of education.

And has amended same.

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

Respectfully submitted,

Amy N. Grady,
Chair.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 274 (originating in the Committee on Education), Third Grade Success Act.

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

Com. Sub. for Com. Sub. for Senate Bill 274 (originating in the Committee on Finance)—A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; and to amend and reenact §18-20-10 of said code, all relating to enhancing academic achievement of students including those with learning disabilities; establishing the Third Grade Success Act; replacing transformative system of support for early literacy with multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; revising findings; defining "science of reading"; revising inclusions in West Virginia Board of Education rules required to effectuate Third Grade Success Act section; requiring each county board to adopt high-quality instructional materials; specifying data to be used to inform the classroom teacher's recommendation on grade level retention; requiring county boards of education to provide in-service training for early childhood classroom assistant teachers, aides, classroom teachers, and in certain instances, interventionists in grades kindergarten through three; updating deadlines for West Virginia Board of Education multi-tiered system of support for early literacy and numeracy reports; modifying provisions pertaining to funding for Third Grade Success Act section; requiring retention in the third grade in certain circumstances; specifying exceptions to third grade retention requirement; adding maximum teacher-pupil ratio for pre-kindergarten; adding maximum early childhood classroom assistant teacher or aide-pupil ratio for kindergarten through grade three; phasing in early childhood classroom assistant teacher/aide requirement for grades one through three; allowing county boards to employ an interventionist instead of an early childhood assistant teacher or aide; removing requirement for survey of districts on class overcrowding and report to the Legislative Oversight Commission on Education Accountability a tailored plan for reducing class overcrowding; phasing in increased ratios of service personnel per 1,000 students for the purpose of determining the basic foundation allowance for service personnel; revising findings; making recognitions regarding dyslexia and dyscalculia; and replacing responsibilities of the West Virginia Board of Education pertaining to specific learning disabilities, including dyslexia and dyscalculia, with duties of the state education agency and the local education agencies, including the public charter schools.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Economic Development has had under consideration

Senate Bill 297, Mountain Homes Act.

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

Com. Sub. for Senate Bill 297 (originating in the Committee on Economic Development)—
A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated, §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4, §5B-2K-5, §5B-2K-6, §5B-2K-7, §5B-2K-8, §5B-2K-9, §5B-2K-10, §5B-2K-11, §5B-2K-12, and §5B-2K-13, all relating to creation of the Mountain Homes Act; setting out a short title; setting out legislative findings; defining terms; providing for rulemaking; providing for an effective date; providing for a sunset date; creating the Mountain Homes Fund; providing for the purposes of the fund; providing for administration of the fund; providing for record keeping; requiring reporting to the Joint Committee on Government and Finance and the Governor; setting out required elements for the report; exempting certain materials from the Freedom of Information Act; establishing eligibility requirements for guarantee agreement; requiring an application for guarantee agreement; setting out required elements in application; providing for decision on application for guarantee; establishing evaluation standards and criteria; providing for guarantee agreement; setting out required terms in agreement; allowing for an extension of time; requiring adjacent properties to be subject to additional guarantee; providing for project administration and certification; setting out powers and duties of secretary of Department of Economic Development; prohibiting certain projects; and providing for violations and criminal penalties.

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

Respectfully submitted,

Chandler Swope,
Chair.

The bill (Com. Sub. for S. B. 297), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Senate Bills 409, 410, 411, 412, 413, 414, 415, 416, 417, and 418, Authorizing WV Department of Economic Development to promulgate legislative rule relating to Small Business Innovation Research and Small Business Technology Transfer Matching Funds Program.

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

Com. Sub. for Senate Bill 409 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-10-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Commerce to promulgate legislative rules; authorizing the rules as filed, as modified, as modified and amended, and as amended by the Legislative Rule-Making Review Committee and as amended by Legislature; relating to authorizing the West Virginia Department of Economic Development to promulgate a legislative rule relating to the Small Business Innovation Research and Small Business Technology Transfer Matching Funds Program; relating to authorizing the Division of Labor to promulgate a legislative rule relating to the West Virginia Board of Manufactured Housing Construction and Safety; relating to authorizing the Division of Labor to promulgate a legislative rule relating to supervision of plumbing work; relating to authorizing the Division of Labor to promulgate a legislative rule relating to regulation of heating, ventilating, and cooling work; relating to authorizing the Division of Labor to promulgate a legislative rule relating to registration of service persons and service agencies; relating to authorizing the Division of Labor to promulgate a legislative rule relating to registration of weighing and measuring devices used by businesses in commercial transactions; relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to hunting, fishing, and other outfitters and guides; relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to commercial whitewater outfitters; relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to special motorboating regulations; relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to miscellaneous permits and licenses.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Senate Bill 452, Relating to Emergency Medical Services Retirement System.

And,

Senate Bill 458, Setting rate of interest on delinquent retirement contribution submissions.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Eric Nelson, Jr.,
Chair.

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bills contained in the foregoing report from the Committee on Pensions.

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Senate Bill 453, Ensuring retirement contributions and delinquency charges of charter school employees be paid upon school closure or by successor.

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

Com. Sub. for Senate Bill 453 (originating in the Committee on Pensions)—A Bill to amend and reenact §18-5G-6 and §18-5G-10 of the Code of West Virginia, 1931, as amended, all relating to public charter schools; providing for successor liability and delinquent retirement contributions; and including retirement contribution payments as payroll obligation in distribution of assets.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric Nelson, Jr.,
Chair.

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Senate Bill 474, Requiring municipal pensions oversight board to propose legislative rules.

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

Respectfully submitted,

Eric Nelson, Jr.,
Chair.

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

Your Committee on Economic Development has had under consideration

Senate Bill 481, Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program.

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

Respectfully submitted,

Chandler Swope,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 482, Modifying number, allocation, and terms of office of certain judges for next general election.

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

Com. Sub. for Senate Bill 482 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §50-1-8, §50-1-9, and §50-1-9a of said code; to amend said code by adding thereto a new section, designated §50-1-9c; to amend and reenact §51-2-1 of said code; and to amend and reenact §51-2A-3 and §51-2A-6 of said code; all relating generally to the circuit composition and staffing of circuit courts, family courts, and magistrates; establishing the number of magistrates per county before and after a date certain; establishing magisterial term length and election dates; setting forth process for Supreme Court of Appeals to undertake magistrate caseload study and submit administrative order regarding magistrate allocation; eliminating limit on maximum number of magistrates; eliminating restriction against reducing number of magistrates; removing payment of magistrates salaries based on population; establishing certain magistrate staff salaries and payment periods; authorizing additional magistrate assistants per magistrate based on workload, subject to certain restrictions; altering the county composition of certain circuit court circuits; establishing the number of circuit court judges per circuit before and after a date certain; altering the county composition of certain family court circuits; establishing the number of family court judges per family court circuit before and after a date certain; establishing salaries of family court judges; establishing certain family court staff salaries and payment periods; permitting Supreme Court of Appeals to increase number of family case coordinators; authorizing the Supreme Court of Appeals to create staff classifications and to appoint additional support staff to family court judges based on workload, subject to certain restrictions; and providing internal effective dates.

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,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 482), under the original double committee reference, was then referred to the Committee on Finance.

Senator Hamilton, from the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration

Senate Bill 561, Relating to administration of WV Drinking Water Treatment Revolving Fund Act.

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

Com. Sub. for Senate Bill 561 (originating in the Committee on Agriculture and Natural Resources)—A Bill to repeal §16-13C-1, §16-13C-2, §16-13C-3, §16-13C-4, §16-13C-5, and §16-13C-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §22-36-1, §22-36-2, §22-36-3, §22-36-4, §22-36-5, §22-36-6, §22-36-7, and §22-36-8 of said code; to amend and reenact §22C-1-4 and §22C-1-8 of said code; and to amend and reenact §22C-2-2 of said code, all relating to the administration of the West Virginia Drinking Water Treatment Revolving Fund; transferring administration of Drinking Water Treatment Revolving Fund article from Department of Health and Human Resources to Department of Environmental Protection; adding provisions to Drinking Water Treatment Revolving Fund article relating to state construction grants program and review of projects funded by Drinking Water Treatment Revolving Fund; directing Department of Environmental Protection to propose legislative rules for state construction grants program; modifying the Water Development Authority; changing composition of Water Development Board.

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,

Bill Hamilton,
Chair.

The bill (Com. Sub. for S. B. 561), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Economic Development has had under consideration

Senate Bill 569, Rehabilitation of Blighted Properties Tax Credit Act.

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

Respectfully submitted,

Chandler Swope,
Chair.

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

Senator Hamilton, from the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration

Senate Bill 581, Amending provisions of 2023 Farm Bill.

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

Com. Sub. for Senate Bill 581 (originating in the Committee on Agriculture and Natural Resources)—A Bill to amend and reenact §11-1A-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-1-4 of said code; to amend and reenact §19-2-5 of said code; to amend and reenact §19-2C-1, §19-2C-6a, and §19-2C-10 of said code; to amend and reenact §19-12-2 of said code; to amend and reenact §19-12D-3, §19-12D-4, and §19-12D-5 of said code; and to amend and reenact §19-36-2 of said code, all relating generally to the 2023 Farm Bill; amending definitions of certain terms; authorizing transfer of land owned by the Department of Agriculture; increasing membership and composition of board of review; compensating board of review members for services; limiting consecutive terms served by board of review members; removing public hearing requirement relating to noxious weed and rule; and expanding definition of farm or ranch.

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,

Bill Hamilton,
Chair.

The bill (Com. Sub. for S. B. 581), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 Nelson:

Senate Bill 590—A Bill to amend and reenact §16-5V-2, §16-5V-6, and §16-5V-14a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a two new sections, designated §16-5V-6c and §16-5V-6d, all relating to the Emergency Medical Services Retirement System; defining terms; updating terms to comply with federal laws; authorizing certain 911 personnel to be members of the Emergency Medical Services Retirement System under certain circumstances; providing for transfer of assets pertaining to 911 personnel; requiring certain computations to be made by the Consolidated Public Retirement Board; and terminating liability of the Public Employees Retirement System; and providing for purchase of service time through payment.

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

By Senator Swope:

Senate Bill 591—A Bill amend and reenact §7-12-9a of the Code of West Virginia, 1931, as amended, relating to allowing counties and municipalities the opportunity to jointly undertake economic development projects and to allow a pro-rata share in costs and revenues generated from said economic development projects.

Referred to the Committee on Economic Development.

By Senators Takubo, Smith, and Weld:

Senate Bill 592—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-98; and to amend said code by adding thereto a new section, designated §11-24-45, all relating to providing a tax credit against the state corporate net income tax and the state personal income tax for expenditures related to the operation of existing employer-provided or sponsored child care facilities; defining terms; providing for rulemaking; setting the amount of the credit; providing for limitation of the credit; providing for transferrable credit available to nonprofit corporations; and providing for a recapture process.

Referred to the Committee on Finance.

By Senator Barrett:

Senate Bill 593—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-7; to amend said code by adding thereto a new section, designated §15-2-5a; and to amend said code by adding thereto a new section, designated §18A-4-5c, all relating to mandating executive branch agencies, State Police, and county boards of education implement area cost-of-living salary adjustment policy; stating findings; directing state agencies, State Police, and county boards of education implement area cost-of-living salary adjustment policy by date certain; establishing mandatory terms to be included in policy; and providing that no private cause of action or right to grievance arises from enactment or operation of the policy.

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

By Senator Takubo:

Senate Bill 594—A Bill to amend and reenact §33-15-4t of the Code of West Virginia, 1931, as amended; to amend and reenact §33-16-3ee of said code; to amend and reenact §33-24-7t of said code; to amend and reenact §33-25-8q of said code; and to amend and reenact §33-25A-8t of said code, all relating to fairness in cost-sharing calculations for certain Health Savings Account-qualified High Deductible Health Plans.

Referred to the Committee on Banking and Insurance.

By Senator Tarr:

Senate Bill 595—A Bill to amend and reenact §11-1C-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-12-4b; to amend said code by adding thereto a new article, designated §11-12E-1, §11-12E-2, §11-12E-3, and §11-12E-4; and to amend said code by adding thereto a new section, designated §36-4-20, all relating to real property, tax, and registration requirements associated with carbon offset agreements; defining terms; providing exceptions; requiring parties to current and new carbon offset agreements to register with the State Tax Department; requiring reports by Division of Forestry and State Tax Department; authorizing disclosure of information between the Tax

Commissioner and Division of Forestry; imposing an excise tax on receipts derived from carbon offset agreements; setting forth reporting requirements; defining "managed timberland" to exclude certain timberland subject to a carbon offset agreement; specifying application of West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; authorizing promulgation of rules; providing legislative findings and declarations; providing that any covenant, restriction, condition, easement, contract, lease, deed, agreement, option, or other governing document, which is executed or recorded after the effective date, which effectively prohibits or restricts the development of land and minerals or the harvesting of timber for the purposes of carbon capture, carbon offset, and carbon sequestration is void and unenforceable, unless said covenant, restriction, condition, easement, contract, lease, deed, agreement, option, or other governing document is for an initial maximum term of 20 years or less; providing that options to renew or continue such arrangements beyond the maximum term of 20 years shall be valid only if the consideration is required to be renegotiated to exercise the option and the option is for a maximum of 20 years or less; and providing exceptions.

Referred to the Committee on Finance.

By Senators Barrett and Tarr:

Senate Bill 596—A Bill to amend and reenact §15A-3-16 of the Code of West Virginia, 1931, as amended; relating to the payment of payment for housing and maintenance of inmates; establishing a means of calculating fees; providing for a reduced rate in certain circumstances; providing for an enhanced rate in certain circumstances; providing for recalculation every decennial; requiring publication on the agency webpage; establishing an effective date; and providing for official and personal liability for payment.

Referred to the Committee on Finance.

By Senator Woodrum:

Senate Bill 597—A Bill to amend and reenact §21A-2-6 of the Code of West Virginia, 1931, as amended, relating to unemployment compensation; and permitting the Commissioner of Workforce West Virginia to hire up to 200 exempt employees.

Referred to the Committee on the Workforce.

By Senator Stuart:

Senate Bill 598—A Bill to amend and reenact §16-54-3 and §16-54-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-54-8a, all relating to the availability of prescription nonopioid medications available; and requiring the Department of Health and Human Resources to make information available to the public about the availability of such treatments.

Referred to the Committee on Health and Human Resources.

By Senators Rucker, Roberts, Smith, and Taylor:

Senate Bill 599—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-44, relating to requiring a moment of silence at the beginning of each school day; forbidding teachers from making suggestions as to the nature of the reflection that students may engage in during the moment of silence; and providing for the Attorney General to defend the provisions of this section.

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

On motion of Senator Takubo, the Senate reconsidered its action by which on yesterday, Wednesday, February 8, 2023, it passed

Eng. Com. Sub. for Senate Bill 424, Authorizing refundable tax credit applied against personal income tax or corporation net income tax.

The vote thereon having been reconsidered,

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

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

On pages 23 and 24, by striking out all of section 4g and inserting in lieu thereof a new section 4g to read as follows:

§11-21-4g. Rate of tax — Taxable years beginning on or after January 1, 2024.

(a) Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, estates, and trusts. — The tax imposed by section three of this article on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust shall be determined in accordance with the following table:

If the West Virginia

taxable income is: _____ The tax is:

Not over \$10,000 _____ 2.55% of the taxable income

Over \$10,000 but not _____ \$255.00 plus 3.4% of excess
over \$25,000 _____ over \$10,000

Over \$25,000 but not _____ \$765.00 plus 3.825% of excess
over \$40,000 _____ over \$25,000

Over \$40,000 but not _____ \$1,338.75 plus 5.1% of excess

over \$60,000	over \$40,000
Over \$60,000 excess	\$2,358.75 plus 5.525% of excess
	over \$60,000

(b) Rate of tax on married individuals filing separate returns. — In the case of husband and wife filing separate returns under this article for the taxable year, the tax imposed by section three of this article on the West Virginia taxable income of each spouse shall be determined in accordance with the following table:

If the West Virginia

taxable income is:

The tax is:

Not over \$5,000	2.55% of the taxable income
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Over \$5,000 but not over \$12,500	\$127.50 plus 3.4% of excess over \$5,000
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Over \$12,500 but not over \$20,000	\$382.50 plus 3.825% of excess over \$12,500
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Over \$20,000 but not over \$30,000	\$669.37 plus 5.1% of excess over \$20,000
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Over \$30,000	\$1,179.37 plus 5.525% of excess over \$30,000
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(c) Effect of rates on Nonresident Composite and Withholding Obligations – Notwithstanding any provision of this article to the contrary, whenever the words "six and one-half percent" appear

in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, those words shall mean 5.525%, with relation to a tax return of, or the tax rate imposed on income of individuals, individuals filing joint returns, heads of households, and estates and trusts.

(d) Applicability of this section. — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply for all taxable years beginning on and after January 1, 2024, and shall be in lieu of the rates of tax specified in §11-21-4e of this code.

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

Engrossed Committee Substitute for Senate Bill 424 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Chapman and Stover—2.

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. 424) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Chapman and Stover—2.

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. 424) 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 seventh order of business.

Senate Concurrent Resolution 10, US Army Air Corps PVT Albert J Sutphin Memorial Highway.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 216, Requiring all schools to instruct students on Holocaust, other genocides and financial literacy.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 216 pass?"

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Chapman and Stover—2.

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. 216) 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. Com. Sub. for Senate Bill 495, Providing correctional institutions and juvenile facilities video and audio records be confidential.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Chapman and Stover—2.

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. 495) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Chapman and Stover—2.

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. 495) 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.

Senate Bill 234, Clarifying uniform statewide deadline for electronically submitted voter registration applications.

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

Rev. Com. Sub. for Senate Bill 250, Requiring certain drivers display student driver sign on rear of vehicle.

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 302, Relating to Law Enforcement Safety Act.

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 484, Clarifying terms and offense of human smuggling.

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 490, Patrol Officer Cassie Marie Johnson Memorial Act.

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

Senate Bill 493, Exempting WV veterans from certain fees and charges at state parks.

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 515, Clarifying deadline to file annual report for companies authorized to do business in WV.

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

Senate Bill 529, Allowing businesses to register as limited liability limited partnerships.

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 532, Sex Offender Registration Act.

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

Senate Bill 533, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations.

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

Eng. House Bill 2310, Provide the Division of Motor Vehicles authority to develop an "Antique Fleet" program so that multiple antique motor vehicles may utilize a single registration plate.

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

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

Eng. House Bill 2602, Reestablishing certain specialized school service personnel classifications.

On second reading, coming up in regular order, was read a second time and ordered to 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 Com. Sub. for Senate Bill 47, Creating Charter Schools Stimulus Fund.

Com. Sub. for Com. Sub. for Senate Bill 187, Making it felony offense for school employee or volunteer to engage in sexual contact with students.

Senate Bill 237, Relating to Public Employees Retirement System and State Teachers Retirement System.

Com. Sub. for Senate Bill 290, Relating to dental health care service plans.

Senate Bill 441, Removing additional one and one-half percent interest rate for tax underpayments.

Senate Bill 487, Extending additional modification reducing federal adjusted gross income.

Com. Sub. for Senate Bill 505, Supplementing and amending appropriations to Department of Administration, Office of Secretary.

Senate Bill 508, Clarifying reporting and disclosure requirements for grassroots lobbying expenditures.

Com. Sub. for Senate Bill 516, Relating to requirements for disclosure of donor contributions.

Com. Sub. for Senate Bill 527, Allowing family members of military personnel access to discharge records.

And,

Eng. Com. Sub. for House Bill 3061, Relating to updating the authority of the Foster Care Ombudsman.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Grady.

At the request of Senator Grady, unanimous consent being granted, the Senate then stood in observance of a moment of silence in recognition of the passing of Sergeant Nathan W. Samples, a West Virginia State Trooper who passed away earlier today.

The Senate proceeded to the thirteenth order of business.

The following communication was reported by the Clerk:



West Virginia House of Delegates
OFFICE OF THE CLERK
BUILDING 1, SUITE 212
1900 KANAWHA BLVD., EAST
CHARLESTON 25305

STEPHEN J. HARRISON
CLERK OF THE HOUSE

(304) 340-3200
STEVE.HARRISON@WVHOUSE.GOV

February 9, 2023

The Honorable Jim Justice, II
Governor, State of West Virginia
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 Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 2530, Relating to the extension of the expiration of temporary registration plates from sixty days to ninety days;

And,

H. B. 2533, Relating to a permanent windshield placard to be valid for the duration of the applicant's life.

These bills are presented to you on this day, February 9, 2023.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills on February 8, 2023:

Senate Bill 2: Senator Karnes;

And,

Senate Bill 546: Senator Martin.

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 8, 2023:

Senate Bill 101: Senator Stuart;

Com. Sub. for Senate Bill 187: Senator Grady;

Com. Sub. for Senate Bill 199: Senator Queen;

Com. Sub. for Senate Bill 273: Senator Barrett;

Com. Sub. for Senate Bill 274: Senator Barrett;

Senate Bill 285: Senator Stuart;

Senate Bill 297: Senator Queen;

Senate Bill 437: Senator Weld;

Senate Bill 468: Senators Stuart and Karnes;

Senate Bill 470: Senator Karnes;

Senate Bill 474: Senator Oliverio;

Senate Bill 481: Senators Phillips and Deeds;

Com. Sub. for Senate Bill 519: Senator Maroney;

Senate Bill 521: Senator Maroney;

Senate Bill 523: Senator Maroney;

Senate Bill 528: Senator Karnes;

Senate Bill 534: Senator Maroney;

Senate Bill 545: Senator Maroney;

Senate Bill 562: Senator Maroney;

Senate Bill 569: Senator Hunt;

Senate Bill 571: Senator Maroney;

Senate Bill 576: Senator Oliverio;

Senate Bill 577: Senators Hamilton, Queen, Clements, and Oliverio;

Senate Bill 587: Senator Karnes;

Senate Bill 588: Senators Woelfel, Deeds, and Clements;

Senate Joint Resolution 1: Senator Maroney;

Com. Sub. for Senate Joint Resolution 2: Senator Maroney;

Senate Joint Resolution 3: Senator Maroney;

And,

Senate Concurrent Resolution 10: Senator Jeffries.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:39 a.m., the Senate adjourned until tomorrow, Friday, February 10, 2023, at 9 a.m.

SENATE CALENDAR

**Friday, February 10, 2023
9:00 AM**

THIRD READING

- Eng. S. B. 234 - Clarifying uniform statewide deadline for electronically submitted voter registration applications (original similar to HB3008)
- Eng. Rev. Com. Sub. for S. B. 250 - Requiring certain drivers display student driver sign on rear of vehicle
- Eng. Com. Sub. for S. B. 302 - Relating to Law Enforcement Safety Act
- 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. 484 - Clarifying terms and offense of human smuggling
- Eng. Com. Sub. for S. B. 490 - Patrol Officer Cassie Marie Johnson Memorial Act
- Eng. S. B. 493 - Exempting WV veterans from certain fees and charges at state parks
- Eng. Com. Sub. for S. B. 515 - Clarifying deadline to file annual report for companies authorized to do business in WV
- Eng. S. B. 529 - Allowing businesses to register as limited liability limited partnerships
- Eng. Com. Sub. for S. B. 532 - Sex Offender Registration Act
- Eng. S. B. 533 - Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations
- Eng. H. B. 2602 - Reestablishing certain specialized school service personnel classifications

SECOND READING

- Com. Sub. for Com. Sub. for S. B. 47 - Creating Charter Schools Stimulus Fund
- Com. Sub. for Com. Sub. for S. B. 187 - Making it felony offense for school employee or volunteer to engage in sexual contact with students
- S. B. 237 - Relating to Public Employees Retirement System and State Teachers Retirement System - (Com. amends. pending)
- Com. Sub. for S. B. 290 - Relating to dental health care service plans
- S. B. 441 - Removing additional one and one-half percent interest rate for tax underpayments (original similar to HB3246)
- S. B. 487 - Extending additional modification reducing federal adjusted gross income
- Com. Sub. for S. B. 505 - Supplementing and amending appropriations to Department of Administration, Office of Secretary

- S. B. 508 - Clarifying reporting and disclosure requirements for grassroots lobbying expenditures
- Com. Sub. for S. B. 516 - Relating to requirements for disclosure of donor contributions
- Com. Sub. for S. B. 527 - Allowing family members of military personnel access to discharge records
- Eng. H. B. 2310 - Provide the Division of Motor Vehicles authority to develop an "Antique Fleet" program so that multiple antique motor vehicles may utilize a single registration plate. - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 3061 - Relating to updating the authority of the Foster Care Ombudsman - (Com. amend. pending)

FIRST READING

- Com. Sub. for S. B. 31 - Relating to permissible expenditures by Water Development Authority from Infrastructure Fund
- S. B. 99 - Relating to meetings among county boards of education - (Com. title amend. pending)
- Com. Sub. for Com. Sub. for S. B. 274 - Third Grade Success Act
- Com. Sub. for S. B. 409 - Authorizing certain agencies of Department of Commerce to promulgate legislative rules
- S. B. 452 - Relating to Emergency Medical Services Retirement System (original similar to HB3242)
- Com. Sub. for S. B. 453 - Ensuring retirement contributions and delinquency charges of charter school employees be paid upon school closure or by successor (original similar to HB3237)
- S. B. 458 - Setting rate of interest on delinquent retirement contribution submissions (original similar to HB3241)
- S. B. 474 - Requiring municipal pensions oversight board to propose legislative rules (original similar to HB3244)
- Com. Sub. for S. B. 478 - Relating to Jumpstart Savings Program
- S. B. 481 - Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2023

Friday, February 10, 2023

10 a.m.

Workforce

(Room 208W)