

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE  
REGULAR SESSION, 2023  
THIRTY-FIFTH DAY

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Charleston, West Virginia, Tuesday, February 14, 2023

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Matt Davis, Bridge Church, Scott Depot, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael T. Azinger, a senator from the third district.

Pending the reading of the Journal of Monday, February 13, 2023,

At the request of Senator Woelfel, 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, adoption as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

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

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

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

On page one, line 17, following the word "introduced", by changing the period to a semicolon and inserting the following: and, be it

*Further Resolved*, That this rule shall not take effect until *sine die* adjournment of the 2023 Regular Session.

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

The question being on the adoption of the resolution (S. C. R. 7), as amended, the same was put and prevailed.

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

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

**Eng. Com. Sub. for House Bill 2621**—A Bill to amend and reenact §51-10-1 and §51-10-8 of the Code of West Virginia, 1931, as amended, all relating to professional bondsmen in criminal cases; definitions of "approved securities" and "bondsmen"; and requiring the Insurance Commissioner to formulate testing and continuing education requirements for all applicants and license renewals.

Referred to the Committee on Banking and Insurance; 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 3111**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2N-1 §5B-2N-2, and §5B-2N-3, relating to establishing Infrastructure Ready Jurisdictions; establishing the requirement for this designation; establishing rulemaking for these Infrastructure Ready Jurisdictions for the Department of Economic Development; awarding an additional five percent preferential scoring for entities on projects within these jurisdictions on all permissible grants; and providing that this is not available within an uncertified municipality even if the surrounding county or counties are certified.

Referred to the Committee on Economic Development.

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 3306**—A Bill to amend and reenact §16-5T-2 of the Code of West Virginia, 1931, as amended, relating to the organizational structure of the Office of Drug Control Policy; providing for the appointing of the director; and requiring the creation of a task force.

Referred to the Committee on Health and Human Resources.

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

**Eng. House Bill 3307**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-36-1, §29-36-2, §29-36-3, §29-36-4, §29-36-5, §29-36-6, and §29-36-7; all relating to establishing the West Virginia-Ireland Trade Commission; proposing findings; providing for the composition of the Commission, appointment of members and filling of vacancies; providing for compensation of the Commission members; its meetings, selection of a chair, maintenance of records and what constitutes a quorum; delineating the purpose of the Commission; prescribing reports be generated by Commission; providing for acceptance of funds by Commission; and providing an effective date.

Referred to the Committee on Economic Development.

### Executive Communications

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



*Jim Justice*  
Governor of West Virginia  
February 13, 2023

The Honorable Stephen J. Harrison, Clerk  
West Virginia House of Delegates  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for House Bill No. Two Thousand Eighteen (2018), which was presented to me on February 7, 2023.

House Bill No. Two Thousand Twenty-Nine (2029), which was presented to me on February 7, 2023.

House Bill No. Two Thousand Five Hundred Six (2506), which was presented to me on February 7, 2023.

You will note that I have approved these bills on February 13, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice  
Governor

JJ/mh

cc: The Honorable Lee Cassis

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 151**, Relating to levying tax on pass-through entity's income.

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

**Com. Sub. for Senate Bill 151** (originating in the Committee on Finance)—A Bill to amend and reenact §11-21-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-21-3a; and to amend and reenact §11-21-20 of said code, all relating to levying a tax on a pass-through entity's income apportioned to West Virginia for pass-through entities that elect to pay West Virginia income tax at the entity level; defining terms; imposing a tax on pass-through entities which elect to pay West Virginia income tax at the entity level; authorizing an income tax credit for an owner for such tax paid; providing for a tax credit for income tax paid to another state; and providing effective dates.

And,

**Senate Bill 579**, Providing payment to vendors not paid due to an agency's budget limit.

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

**Com. Sub. for Senate Bill 579** (originating in the Committee on Finance)—A Bill recognizing and declaring certain claims against agencies of the state to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

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 585**, Prohibiting county commissions from adopting any authorization that exceeds state law regarding agricultural operations.

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

**Com. Sub. for Senate Bill 585** (originating in the Committee on Agriculture and Natural Resources)—A Bill to amend and reenact §7-1-3 and §7-1-3ff of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-3-6 of said code, all relating to prohibiting county commissions from adopting any ordinance, rule, license requirement, or other authorization that exceeds state law, rule, or regulation regarding agricultural operations; revoking any ordinance,

rule, or regulation previously adopted by county commissions regarding agricultural operations; prohibiting county commissions from adopting any ordinance, rule, regulation, or other authorization that applies to use of federal or state pesticides, herbicides, or insecticides; prohibiting county commissions from adopting ordinances that regulate dwellings or other buildings on agricultural land or operations; requiring appointment of at-large member on county enforcement agency to have background or knowledge of agricultural operations; and clarifying that authorization of public health official to obtain nuisance injunction does not apply to agricultural operations.

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

Respectfully submitted,

Bill Hamilton,  
*Chair.*

The bill (Com. Sub. for S. B. 585), under the original double committee reference, was then referred to the Committee on Government Organization.

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 Tarr:**

**Senate Bill 614**—A Bill to amend and reenact §15-2D-1, §15-2D-2, and §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to modifying the language in the statutes to extend the jurisdiction of the School Safety Unit of the Division of Protective Services, Capitol Police, to provide services to schools, such as primary, secondary, and post-secondary schools, whether public or private, for purposes of school safety and compliance throughout the state; and providing to extend the jurisdiction of the officers assigned to the School Safety Unit of the Division of Protective Services, Capitol Police, to have statewide jurisdiction in order to respond to and investigate matters of school safety.

Referred to the Committee on the Judiciary.

**By Senator Taylor:**

**Senate Bill 615**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-4d, relating to prohibiting mandates for vaccines.

Referred to the Committee on Health and Human Resources.

**By Senator Weld:**

**Senate Bill 616**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31-18F-1, §31-18F-2, §31-18F-3, §31-18F-4, §31-18F-5, §31-18F-6; and to amend and reenact §36-8-13 of said code, all relating generally to creating the West Virginia Veterans' Home Loan Mortgage Program of 2023; establishing a special revenue account known as the West Virginia Veterans' Home Loan Mortgage Account; declaring the purpose of the account; providing that the Housing Development Fund shall administer the account; setting forth terms of the program; authorizing the Housing Development Fund to make certain mortgage

loans from the account; authorizing the Housing Development Fund to promulgate legislative and emergency rules; and authorizing the unclaimed property administrator to transfer a certain amount from the Unclaimed Property Trust Fund to the account.

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

**By Senator Barrett:**

**Senate Bill 617**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-31, relating to required reporting; requiring that the Commissioner of the Bureau for Medical Services produce a report; requiring that report relate to home and community-based provider reimbursement; requiring use of methodology; requiring use of independent party; and establishing deadline.

Referred to the Committee on Health and Human Resources.

**By Senator Maroney:**

**Senate Bill 618**—A Bill to amend and reenact §33-24-7t of the Code of West Virginia, 1931, as amended, relating to cost-sharing calculations; defining terms; and providing that the fairness in cost-sharing calculation does not apply to the voluntary Cost Share Assistance Program.

Referred to the Committee on Health and Human Resources.

**By Senator Grady:**

**Senate Bill 619**—A Bill to amend and reenact §18-5-46 of the Code of West Virginia, 1931, as amended, relating to allowing teachers in public schools that include any one or more of grades kindergarten through 12 to teach intelligent design as a theory of how the universe and/or humanity came to exist.

Referred to the Committee on Education.

**By Senator Trump:**

**Senate Bill 620**—A Bill to amend and reenact §3-1-5 of the Code of West Virginia, 1931, as amended, relating to the maximum number of registered voters per precinct and the distance between voting precincts that a county commission may consider for consolidation when the public convenience requires.

Referred to the Committee on the Judiciary.

**By Senator Takubo:**

**Senate Bill 621**—A Bill to amend and reenact §49-4-601 of the Code of West Virginia, 1931, as amended, relating to requiring the sheriff to serve child abuse and neglect petitions with additional compensation; requiring the sheriff to serve the petition and notice of a preliminary hearing; clarifying the procedure for notices of subsequent hearings; and exempting the sheriff from further mechanisms for notice of the petition and preliminary hearing.

Referred to the Committee on the Judiciary.

**By Senator Nelson:**

**Senate Bill 622**—A Bill to amend and reenact §20-18-2 and §20-18-6 of the Code of West Virginia, 1931, as amended, all relating to including state correctional officers in the Division of Natural Resources Police Officer Retirement System.

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

**By Senator Barrett:**

**Senate Bill 623**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §16-5V-6c and §16-5V-6d, all relating to authorizing firefighters employed by the 130th and 167th Airlift Wings of the West Virginia National Guard to be members of the Emergency Medical Services Retirement System; providing for transfer of assets pertaining to firefighters employed by the 130th and 167th Airlift Wings of the West Virginia National Guard; requiring certain computations to be made by the Consolidated Public Retirement Board; and terminating liability of the Public Employees Retirement System.

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

**By Senator Rucker:**

**Senate Bill 624**—A Bill to amend and reenact §17C-5-1 of the Code of West Virginia, 1931, as amended, relating to clarifying the offense of vehicular homicide; changing negligent homicide to vehicular homicide; and adding a misdemeanor offense for when a person dies within a year as a proximate result of driving in a negligent manner.

Referred to the Committee on the Judiciary.

**By Senator Rucker:**

**Senate Bill 625**—A Bill to amend and reenact §18-8-1a of the Code of West Virginia, 1931, as amended, requiring certain transcripts or credentials to be accepted as record of student's previous performance for placement and credit assignment for microscool programs.

Referred to the Committee on School Choice.

**By Senator Rucker:**

**Senate Bill 626**—A Bill to amend and reenact §61-8-5 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §61-8-5a; and to amend and reenact §61-8-6, §61-8-7, and §61-8-8 of said code, all relating to increasing the penalties for operating a house of prostitution; specifying persons operating a house of prostitution shall be charged with a felony; increasing fines; increasing punishments; removing antiquated language; adding penalties for customers of prostitution; and specifying punishment will be served in a state correctional facility.

Referred to the Committee on the Judiciary.

**By Senator Rucker:**

**Senate Bill 627**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §24-2I-1, §24-2I-2, and §24-2I-3, all relating to establishing a community solar program for subscribers to gain credits against their utility bills; providing legislative findings; defining terms; authorizing subscriber-based solar projects that allow solar power production to be granted credit against electric power costs; providing that an authorized project is not deemed as a utility; providing conditions and terms for operation for a facility; providing for regulation of the program by the Public Service Commission; providing conditions for credits; providing requirements for subscriber organizations; and providing Public Service Commission rulemaking authority and directives.

Referred to the Committee on Government Organization.

**By Senators Rucker and Oliverio:**

**Senate Bill 628**—A Bill to amend and reenact §18-5-48 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-7, §18-5G-12, and §18-5G-15 of said code; and to amend and reenact §18-9A-15 of said code, all relating to revising provisions related to public charter schools; providing public charter school access to funding from School Safety Fund; modifying priorities for funds use; requiring rule on process for needs-based funding requests; expressing legislative intent on comparable levels of funding for public charter school students; authorizing state institution of higher education as applicant; prohibiting imposition of requirements on public charter schools choosing to incorporate post-secondary, industry and workforce programs that are not required of noncharter public schools; authorizing public charter schools to include before and after school programs in their education program; excluding public charter school programs from regulation as child care facility; authorizing public charter school students to participate on the same basis as other public school students in extracurricular athletic and academic interscholastic activities sponsored by noncharter public school serving attendance area if not sponsored by charter school; clarifying public charter schools are exempt from state board policies unless otherwise specifically provided; requiring professional charter school board to consult with nationally recognized organizations along with the state board; requiring state board to establish framework and procedures for interaction between public charter schools and county boards to facilitate cooperation and ensure prompt transfer of records; providing for invoicing of certain funding when student transfers from and to certain entities after the beginning of the school year; prohibiting sale or other transfer of public facility after public charter school requests usage; authorizing professional charter school board to receive and expend gifts, grants, and donations to carry out purposes of act, to apply for federal funds to implement programs, and to make start-up grants to public charter schools; and requiring for state board rule on method for providing increased enrollment funding for public charter schools.

Referred to the Committee on School Choice; and then to the Committee on Education.

**By Senators Hamilton, Clements, Deeds, Hunt, Karnes, Martin, and Stover:**

**Senate Bill 629**—A Bill to amend and reenact §20-2-33 of the Code of West Virginia, 1931, as amended, relating to establishing an auto-renewal program for wildlife licenses; and authorizing the director to assess discounts to fees.

Referred to the Committee on Agriculture and Natural Resources.

**By Senators Rucker and Trump:**

**Senate Bill 630**—A Bill to amend the Code of West Virginia 1931, as amended, by adding thereto a new section, designated §61-5-17a, relating to creating the offense of knowingly and willfully obstructing a social service worker, a person acting in his or her official capacity; defining social service worker; and establishing the penalty therefor as life in prison with parole eligibility after service of 15 years.

Referred to the Committee on the Judiciary.

Senator Takubo announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with Rule 17 of the Rules of the Senate, had removed from the Senate third reading calendar **Eng. Com. Sub. for Senate Bill 472**; and from the Senate second reading calendar, **Senate Bill 441, Senate Bill 452, Com. Sub. for Senate Bill 453, Senate Bill 458, and Senate Bill 474.**



The Senate proceeded to the seventh order of business.

**Senate Resolution 30**, Recognizing February 14, 2023, as National Donor Day at Legislature.

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

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

**Senate Resolution 31**, Designating February 14, 2023, as Child Care Day at Legislature.

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

At the request of Senator Tarr, 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 31**, Relating to permissible expenditures by Water Development Authority from Infrastructure Fund.

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, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 31) passed with its title.

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

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

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, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 99) passed.

The following amendment to the title of the bill, from the Committee on Education, was reported by the Clerk and adopted:

**Eng. Senate Bill 99**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-28, relating to meetings of county boards of education to explore and discuss the feasibility of consolidating school districts or sharing certain services; requiring, when two or more county boards of education elect to explore and discuss with each other the idea of possibly consolidating or sharing certain services and functions, the boards to agree on the call of a joint special public meeting; specifying minimum topics; requiring facilitator for the meeting; requiring facilitator to prepare and deliver to the participating boards a detailed written report of the meeting's discussions and identifying any areas for further discussion or consideration by the boards; requiring each participating board to determine whether to accept the report and whether the participating boards should meet again; providing that upon vote to accept of the facilitator's report and hold another meeting, the participating boards shall attend another meeting; specifying minimum topics; requiring the facilitator to prepare and deliver to the participating boards a detailed written report of the meeting's discussion and identifying any areas for further discussion or consideration; requiring each participating board to determine whether to accept the report and whether the participating boards should meet again; requiring meeting process to be repeated until 120 days have passed since the initial joint meeting or until the participating boards no longer wish to meet; requiring a full report of all meetings identifying the extent to which the participating boards think existing laws may enable or complicate the consolidation of school districts or the sharing of services and functions, together with any suggestions of legislation; requiring report, upon approval by the participating boards, to be forwarded to the President of the Senate and the Speaker of the House of Delegates; authorizing Legislature to consolidate participating county boards as a pilot; and authorizing Legislature to incentivize county boards to explore and discuss the feasibility of consolidating school districts or sharing of services.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 274**, Third Grade Success Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 13, 2023, for amendments to be received on third reading, was read a third time.

On motions of Senators Rucker and Barrett, the following amendment to the bill was reported by the Clerk:

On page 4, section 10, lines 55-57, by striking out all of subdivision (7) and inserting in lieu thereof a new subdivision (7), to read as follows:

(7) Establishing an approved list of dyslexia screeners to be administered to students no less than twice per year in kindergarten through third grade and any time students with identified deficiencies are not responding to interventions;.

Following discussion,

The question being on the adoption of the amendment offered by Senators Rucker and Barrett to the bill, the same was put and prevailed.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 274 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 274) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2023.

On this question, the yeas were: Azinger, 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)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 274) takes effect July 1, 2023.

*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 409**, Authorizing Department of Commerce to promulgate legislative rules.

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, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 409) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, 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)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 409) 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 472**, Creating criminal offense of indecent exposure in front of minors.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for Senate Bill 478**, Relating to Jumpstart Savings Program.

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, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 478) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, 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)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 478) takes effect from passage.

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

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

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, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 481) 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 527**, Allowing family members of military personnel access to discharge records.

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

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

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

On page 2, section 3ll, line 31, by striking out the word "report" and inserting in lieu thereof the word "request".

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

Engrossed Committee Substitute for Senate Bill 527 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 527) passed with its title.

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

**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 third reading, coming up in regular order, with the unreported Transportation and Infrastructure committee amendment pending, and with the right having been granted on yesterday, Monday, February 13, 2023, for further 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 and with the unreported Transportation and Infrastructure committee amendment pending.

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

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Monday, February 13, 2023, for further amendments to be received on third reading, was read a third time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

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

**ARTICLE 9. FOSTER CARE OMBUDSMAN PROGRAM.**

**§49-9-101. The Foster Care Ombudsman.**

(a) There is continued within the Office of the Inspector General the position of the West Virginia Foster Care Ombudsman. The Office of the Inspector General shall employ a Foster Care Ombudsman to affect the purposes of this article.

(b) In addition to the duties provided in §9-5-27 of this code, the duties of the Foster Care Ombudsman include, but are not limited to, the following:

(1) Establishing a statewide procedure to receive, investigate, and resolve complaints:

(A) Filed on behalf of a child who is subject to a reported allegation of abuse and neglect, a child who has died or sustained a critical incident, a child in the juvenile justice system, a foster child, foster parent, or kinship parent; or,

(B) On the Foster Care Ombudsman's own initiative, of a child who is subject to a reported allegation of abuse and neglect, a child who has died or sustained a critical incident, a child in the juvenile justice system; or

(C) On the Foster Care Ombudsman's own initiative, on behalf of a foster child, relating to action, inaction, or decisions of the state agency, child-placing agency, or residential care facility which may adversely affect the foster child, foster parent, or kinship parent;

(2) Review periodically and make appropriate recommendations for the policies and procedures established by any state agency providing services to ~~foster children, foster parents, kinship parents, including, but not limited to, the system of providing foster care and treatment~~ the child welfare system;

(3) Pursuant to an investigation, provide assistance to a ~~foster child, foster parent, or kinship parent~~ an individual who the Foster Care Ombudsman determines is in need of assistance, including, but not limited to, collaborating with an agency, provider, or others on behalf of the best interests of the ~~foster~~ child;

(4) Recommend action when appropriate, including, but not limited to, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil, and special rights of ~~foster children; who reside in this state~~ children in the child welfare system and the juvenile justice system;

(5) Conduct programs of public education when necessary and appropriate;

(6) Have input into the creation of, and thereafter make recommendations consistent with, the foster children, foster parents, and kinship parents bill of rights;

(7) Take appropriate steps to advise the public of the services of the Foster Care Ombudsman, the purpose of the ombudsman, and procedures to contact the office; and

(8) Make inquiries and obtain assistance and information from other state governmental agencies or persons as the Foster Care Ombudsman requires for the discharge of his or her duties.

(c) (1) The Foster Care Ombudsman or his or her staff may not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to the identity of an individual providing information to the ombudsman as part of an official investigation, or the substance of that person's report to the ombudsman as part of an official investigation. All memoranda, work product, notes, or case files developed and maintained as part of an official investigation of the Foster Care Ombudsman Office are confidential and are not subject to discovery, subpoena, or other means of legal compulsion, and are not admissible as evidence in a judicial or administrative proceeding.

(2) The ombudsman may be compelled to provide testimony by a court or administrative body of competent jurisdiction related to any action carried out by the office that is unrelated to the substance of a specific official investigation, or reports submitted to the Legislative Oversight Commission on Health and Human Resources Accountability provided for in §9-5-27 and §49-9-102 of this code. Should the ombudsman be compelled to testify, provide evidence in discovery, respond to a subpoena, or otherwise divulge testimony or evidence in any judicial, administrative, or legislative proceeding, the ombudsman may not be compelled to provide testimony or evidence concerning the identity of any complainant or any individual providing information to the ombudsman as part of an official investigation, or the substance of any complaint or report unless the ombudsman should decline to exercise that privilege. The purpose of this provision is to ensure a level of confidentiality between the ombudsman and a person reporting to, complaining

to, or providing other evidence to the ombudsman as part of an official investigation carried out by the office.

(3) Any objection by the ombudsman to the disclosure of any testimony, documentary, or physical evidence shall be reviewed by the presiding official of such tribunal, in camera, upon the request of the ombudsman, and the presiding official shall prevent the disclosure of the identity of any complainant, witness, or reporter as well as the substance of their complaint, testimony, or report.

#### **§49-9-102. Investigation of complaints.**

(a) Upon receipt of a complaint ~~filed on behalf of a foster child, foster parent, or kinship parent, on his or her own initiative~~ or by court order within the scope of the Foster Care Ombudsman Program, the Foster Care Ombudsman shall investigate, except as provided in §49-9-102(c) of this code, any act, practice, policy, or procedure of any state agency, child-placing agency, juvenile facility, or residential care facility which affects the health, safety, welfare, or rights of a foster child, a foster parent, a child who is subject to a reported allegation of abuse and neglect, a child who has died or sustained a critical incident, a child in the juvenile justice system, or a kinship parent.

(b) Investigative activities of the Foster Care Ombudsman include, but are not limited to: information gathering, mediation, negotiation, informing parties of the status of the investigation, notification to any aggrieved party of alternative processes, reporting of suspected violations to a licensing or certifying agency, and the reporting of suspected criminal violations to the appropriate authorities.

(c) The Foster Care Ombudsman need not investigate any complaint upon determining that:

(1) The complaint is trivial, frivolous, vexatious, or not made in good faith;

(2) The complaint has been too long delayed to justify present investigation;

(3) The resources available, considering the established priorities, are insufficient for an adequate investigation;

(4) The matter complained of is not within the investigatory authority of the Foster Care Ombudsman; or

(5) A real or apparent conflict of interest exists and no other person within the office is available to investigate the complaint in an impartial manner.

(d) The Office of the Inspector General and other appropriate state governmental agencies may establish and implement cooperative agreements for receiving, processing, responding to, and resolving complaints involving state governmental agencies under the provisions of this section.

(e) ~~Beginning with the third quarter of 2020, the~~ The Foster Care Ombudsman shall submit a an annual written report to the Governor containing:

(1) The number of complaints;



- (2) The types of complaints;
- (3) The location of the complaints;
- (4) How the complaints are resolved; and
- (5) Any other information the Foster Care Ombudsman feels is appropriate.

(f) ~~Beginning in December 2020, the~~ The Foster Care Ombudsman shall summarize the quarterly reports and present that information to the Legislative Oversight Commission on Health and Human Resources Accountability. Nothing shall preclude the Foster Care Ombudsman office from submitting data, findings, or reports beyond this annual report.

(g) Another office, department, agency, or official may not prohibit the release of an ombudsman's recommendations to the Governor and the Legislature.

#### **§49-9-107. Confidentiality of investigations.**

(a) Information relating to any investigation of a complaint that contains the identity of the complainant, a child who is subject to a reported allegation of abuse and neglect, a child who has died or sustained a critical incident, a child in the juvenile justice system, or a foster child, foster parent, or kinship parent shall remain confidential except:

(1) ~~Where disclosure is authorized in writing by the complainant foster child, foster parent, kinship parent, or the guardian. Where imminent risk of serious harm is communicated directly to the Foster Care Ombudsman or his or her staff:~~

(2) Where disclosure is necessary to the bureau ~~for Children and Families~~ in order for such office to determine the appropriateness of initiating an investigation regarding potential abuse, neglect, or emergency circumstances; or

(3) Where disclosure is necessary to the Office of Health Facility Licensure and Certification in order for such office to determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure, certification, or both.

(b) The Foster Care Ombudsman shall maintain confidentiality with respect to all matters including the identities of complainants, witnesses, or others from whom information is acquired, except insofar as disclosures may be necessary to enable the Foster Care Ombudsman to carry out duties of the office or to support recommendations.

(c) Notwithstanding any other section within this article, all information, records, and reports received by or developed by the Foster Care Ombudsman Program which relate to a foster child, foster parent, or kinship parent, including written material identifying a foster child, foster parent, or a child who is subject to a reported allegation of abuse and neglect, a child who has died or sustained a critical incident, a child in the juvenile justice system, or kinship parent, are confidential pursuant to §49-5-101 et seq. of this code and are not subject to the provisions of §29B-1-1 et seq. of this code, and may not be disclosed or released by the Foster Care Ombudsman Program, except under the circumstances enumerated in this section.

~~(e)~~ (d) Nothing in this section prohibits the preparation and submission by the Foster Care Ombudsman of statistical data and reports, as required to implement the provisions of this article

or any applicable federal law, exclusive of any material that identifies any foster child, foster parent, kinship parent, or complainant.

~~(d)~~ (e) The Inspector General shall have access to the records and files of the Foster Care Ombudsman Program to verify its effectiveness and quality where the identity of any complainant, a child who is subject to a reported allegation of abuse and neglect, a child who has died or sustained a critical incident, a child in the juvenile justice system, or foster child, foster parent, or kinship parent is not disclosed.

Engrossed Committee Substitute for House Bill 3061, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3061) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, 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)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3061) 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 441**, Removing additional one and one-half percent interest rate for tax underpayments.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

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

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

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

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

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

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Com. Sub. for Senate Bill 467**, Providing county commissioners ongoing mechanism to consider compensation increases for elected officials every two years.

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

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

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 2412**, Declaring November 14 every year, a special Memorial Day in remembrance of the Marshall University airplane crash.

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

**Eng. House Bill 2882**, Making a supplemental appropriation to the Department of Economic Development.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 3055**, To create a vocational math class for students interested in careers in the trades.

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

The following amendment to the bill, from the Committee on Education, was reported by the Clerk and adopted:

On page 1, section 13, line 12, after the word "classes" by inserting the words "and specific content".

The bill (Eng. Com. Sub. for H. B. 3055), as amended, was then ordered to third reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Trump.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Trump were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

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 13, 2023

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

Dear Governor Justice,

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

**S. B. 4** - Creating Adopt-A-Trail volunteer programs for public land under DNR.

And,

**S. B. 241**- Patient Brokering Act.

These bills are presented to you on this day, February 13, 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



*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 13, 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:

**H. B. 2835**, Repeal outdated provisions of code relating to the West Virginia graduate college and Marshall University.

This bill is presented to you on this day, February 13, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "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 added as co-sponsors to the following bills and resolutions on February 13, 2023:

**Senate Bill 55:** Senator Maynard;

**Senate Bill 114:** Senator Roberts;

**Senate Bill 151:** Senators Trump and Maroney;

**Senate Bill 182:** Senator Maroney;

**Senate Bill 184:** Senator Maroney;

**Senate Bill 193:** Senator Maroney;

**Com. Sub. for Senate Bill 199:** Senator Maroney;

**Senate Bill 511:** Senator Hamilton;

**Senate Bill 520:** Senator Hamilton;

**Com. Sub. for Senate Bill 522:** Senator Woodrum;

**Senate Bill 552:** Senators Roberts and Deeds;

**Senate Bill 555:** Senator Woodrum;

**Senate Bill 558:** Senator Woodrum;

**Senate Bill 559:** Senator Woodrum;

**Senate Bill 563:** Senator Woodrum;

**Senate Bill 566:** Senator Woodrum;

**Senate Bill 569:** Senator Woodrum;

**Senate Bill 570:** Senator Woodrum;

**Senate Bill 572:** Senator Maroney;

**Senate Bill 577:** Senator Woodrum;

**Senate Bill 588:** Senator Maroney;

**Senate Bill 590:** Senators Roberts, Deeds, and Woelfel;

**Senate Bill 592:** Senators Maroney and Woelfel;

**Senate Bill 593:** Senator Maroney;

**Senate Bill 594:** Senator Maroney;

**Senate Bill 599:** Senator Maynard;

**Senate Bill 605:** Senator Takubo;

**Senate Bill 606:** Senators Maynard and Woodrum;

**Senate Bill 608:** Senator Deeds;

**Senate Bill 609:** Senator Swope;

**Senate Bill 610:** Senator Maroney;

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

**Senate Resolution 30:** Senators Caputo, Maroney, Rucker, and Hamilton;

And,

**Senate Resolution 31:** Senators Caputo, Rucker, and Hamilton.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:56 a.m., the Senate adjourned until tomorrow, Wednesday, February 15, 2023, at 11 a.m.

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## **SENATE CALENDAR**

**Wednesday, February 15, 2023  
11:00 AM**

### **THIRD READING**

Eng. Com. Sub. for S. B. 467 - Providing county commissioners ongoing mechanism to consider compensation increases for elected officials every two years

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) - (With right to amend)

Eng. Com. Sub. for H. B. 2412 - Declaring November 14 every year, a special Memorial Day in remembrance of the Marshall University airplane crash

Eng. H. B. 2882 - Making a supplemental appropriation to the Department of Economic Development - (With right to amend)

Eng. Com. Sub. for H. B. 3055 - To create a vocational math class for students interested in careers in the trades.

### **FIRST READING**

Com. Sub. for S. B. 151 - Levying tax on pass-through entity's income

Com. Sub. for S. B. 579 - Providing payment to vendors who provided services to state



**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2023**

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**Wednesday, February 15, 2023**

10 a.m.

Agriculture & Natural Resources

(Room 208W)