

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Thursday, February 16, 2023

The Senate met at 11:17 a.m.

(Senator Takubo in the Chair.)

Prayer was offered by the Reverend Kevan Bartlett, Maranatha Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jason Barrett, a senator from the sixteenth district.

Pending the reading of the Journal of Wednesday, February 15, 2023,

At the request of Senator Phillips, 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 concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 239, Requiring Commissioner of Bureau for Behavioral Health to engage certain providers and leaders to study homeless demographic.

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 2186—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-20, relating to requirements for smoke evacuation systems for health care facilities; defining terms; and creating penalties for violation of requirement.

Referred to the Committee on Health and Human Resources.

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

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

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

Eng. Com. Sub. for House Bill 2821—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12n, relating to authorizing for taxable years beginning on and after January 1, 2020, a decreasing modification reducing federal adjusted gross income for state personal income tax purposes in amount of certain West Virginia gaming and gambling losses, not to exceed the amount of West Virginia gaming and gambling winnings, for the taxable year; allowing taxpayer to amend previously filed returns for the 2020, 2021, and 2022 tax years to recognize this decreasing modification; providing that based on such amended returns as specified herein, any fines, assessments, penalties, or interest levied thereon are void, and returnable to the taxpayer; requiring detailed records substantiating losses; and placing burden of proving any loss on taxpayer.

Referred to the Committee on Finance,

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

Eng. House Bill 2839—A Bill to amend and reenact §22-2-10 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new section, designated §22-3-39, all relating to declaring the benefits and effects of the extraction of useful substances from the waters of the state; clarifying the applicability of state policy for provisions of the Abandoned Mine Lands and Reclamation Act and of the Surface Coal Mining and Reclamation Act; and correcting the name of a receiving fund for proceeds received by the Department of Environmental Protection.

Referred to the Committee on Finance.

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

Eng. House Bill 2899—A Bill to repeal §24-2B-1 and 24-2B-2 of the Code of West Virginia, 1931, as amended, relating to gas utility rates that were set for a period of 12 months during 1983.

Referred to the Committee on Government Organization.

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 2993—A Bill to amend and reenact §16-5B-14 of the Code of West Virginia, 1931, as amended, relating to rural emergency hospital licensure; defining terms; setting forth licensure standards; permitting a rural emergency hospital to perform certain functions; and providing rulemaking authority.

Referred to the Committee on Health and Human Resources.

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

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

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 3122—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5l, relating to permitting certain types of rifles using an encapsulated propellant charge that loads from the breech, with the bullet loaded from the muzzle, during any muzzleloader season; and providing an exception.

Referred to the Committee on Agriculture and Natural Resources.

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

Eng. Com. Sub. for House Bill 3200—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-2A-2, relating to authorizing the Department of Health and Human Resources to transfer certain properties; permits the department to transfer comprehensive community mental health centers and comprehensive intellectual disability facilities to regional mental health centers or regional intellectual disability facilities; establishing transfer requirements; providing for reversion to the state if the property for certain reasons; permitting the property to be pledged as collateral for a loan; exempts the transfer from the requirements of the Real Estate Division; exempts the transfer from Attorney General scrutiny.

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, to take effect July 1, 2023, and requested the concurrence of the Senate in the passage of

Eng. House Bill 3268—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17B-2-16; and to amend said code by adding thereto a new article, designated §33-62-1, all relating to adding protections for West Virginia residents who reside out of state for certain time periods from non-renewal of licenses and registration.

Referred to the Committee on Banking and Insurance.

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

Eng. Com. Sub. for House Bill 3308—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §24-2-4h and §24-2-21a, all relating to the authority of the Public Service Commission; authorizing the Public Service Commission of West Virginia to consider and authorize the recovery of certain costs by certain utilities through the issuance of consumer rate relief bonds; providing legislative findings; providing definitions; providing application process for financing order authorizing the recovery of certain costs; requiring certain information in application for financing order; providing for issuance of financing

order and information contained therein; allowing for disposition of consumer rate relief property; providing for the effect and term of financing order; providing for subsequent Public Service Commission proceedings and limits on commission authority; providing for duties of certain utilities; providing for application of adjustment mechanism and filing of schedules with commission; providing for nonbypassability of consumer rate relief changes; providing consequences and procedures for utility default; providing for requirements and obligations of successors to certain utilities; providing for security interest in consumer rate relief property and transfer and sale of same; providing for limitation on taxation of consumer rate relief charges and exemption thereto; providing that consumer rate relief bonds are not debt of governmental entities or a pledge of taxing power; providing utility consumer rate relief bonds as legal investment; providing for certain pledge of state; providing for governing law; providing for severability and non-utility status; providing for continued viability of certain bonds; and requiring that utilities must obtain consent and approval from the Public Service Commission prior to retiring, abandoning, closing, or otherwise permanently rendering incapable of operating certain plants or units.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 3317—A Bill to amend and reenact §30-1-7a of the Code of West Virginia, 1931, as amended, relating to removing specific continuing education requirements.

Referred to the Committee on Health and Human Resources.

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

House Concurrent Resolution 29—Amending joint rules of the Senate and House of Delegates.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

Your Committee on Education has had under consideration

Senate Bill 488, Aligning state and federal accreditation rules.

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

Respectfully submitted,

Amy N. Grady,
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 530, Expanding candidates eligible for judicial retirement.

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

Com. Sub. for Senate Bill 530 (originating in the Committee on Pensions)—A Bill to amend and reenact §51-9-6a of the Code of West Virginia 1931, as amended, relating to expanding those who may be eligible for judicial retirement; allowing judges first appointed or elected after July 1, 2005, with 12 years of service contributing to the Judges' Retirement System to receive retirement benefits.

Senate Bill 570, Relating to Natural Resources Police Officer Retirement.

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

Com. Sub. for Senate Bill 570 (originating in the Committee on Pensions)—A Bill to amend and reenact §20-18-2; §20-18-5; and §20-18-6 of the Code of West Virginia, 1931, as amended, all relating to the Natural Resources Police Officers Retirement System; including newly hired state correctional officers in the Natural Resources Police Officers Retirement System; providing for supplemental funding of the Natural Resources Police Officers Retirement System; and providing for additional recruitment and retention opportunities of Natural Resources Police Officers.

And,

Senate Bill 582, Amending provisions of WV Public Employees Retirement Act.

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

Com. Sub. for Senate Bill 582 (originating in the Committee on Pensions)—A Bill to amend and reenact §5-10-2, §5-10-14, §5-10-17, and §5-10-48 of the Code of West Virginia, 1931, as amended, all relating generally to legislative employment and retirement; modifying the length of service an employee of the Legislature whose term of employment is otherwise classified as temporary and who is employed to perform services required by the Legislature for its regular sessions must serve to obtain service credit towards retirement; and increasing the maximum annual remuneration a retirant may earn as a temporary legislative employee.

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

Respectfully submitted,

Eric Nelson, Jr.,
Chair.

The bills (Com. Sub. for S. B. 530, 570, and 582), under the original double committee references, were then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 543 (originating in the Committee on Education), Authorizing rule-making changes to terms, procedures and reporting duties in higher education.

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

Com. Sub. for Com. Sub. for Senate Bill 543 (originating in the Committee on Finance)—A Bill to amend and reenact §29A-3A-1 and §29A-3A-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §29A-3A-2a; to amend and reenact §29A-3A-3, §29A-3A-4, §29A-3A-5, §29A-3A-6, §29A-3A-7, §29A-3A-8, §29A-3A-9, §29A-3A-10, §29A-3A-11, §29A-3A-11a, §29A-3A-12, §29A-3A-13, §29A-3A-14, §29A-3A-15, §29A-3A-16, §29A-3A-16a, §29A-3A-17, §29A-3A-18, and §29A-3A-20, all relating to higher education and school building rule-making authority; revising definitions; requiring all sections of rule to be filed when proposing an amendment to an existing rule; requiring rule to be accompanied by not of explanation; requiring agency proposing to repeal a rule to file the rule in its entirety with the provisions of the rule struck through; making provisions applicable to procedural and interpretive rules applicable to legislative exempt rules; allowing an agency to hold a public hearing, schedule a public comment period, or both; requiring agency to respond to public comments and explain the reasoning for comments being incorporated or not incorporated into the rule; reducing time period for filing of notices of hearings for receiving public comment on a proposed rule; allowing repeal of a legislative exempt, procedural, or interpretive rule by filing notice of repeal with the Secretary of State; establishing time limit for filing of notice of approval with the Secretary of State and the Legislative Oversight Commission on Education Accountability (LOCEA); requiring LOCEA make a continuing investigation, study, and review of the practices, policies, and procedures of the State Board of Education; requiring electronic submission of agency-approved rule to LOCEA; requiring electronic filing of notice of approval in the State Register; adding to information that electronic copies of the proposed legislative rule is to include; modifying topics LOCEA's review of a proposed legislative rule is to include; modifying LOCEA's options in making recommendations to the Legislature after reviewing a legislative rule; requiring bill authorizing legislative rule to incorporate the amendments recommended by LOCEA; modifying date after which proposed legislative rules submitted to LOCEA can be withheld from its report to the clerk of the respective houses; modifying provisions pertaining to bills of authorization; removing provisions pertaining to computation of dates; allowing disapproval of rules not approved or acted upon by the Legislature; requiring Secretary of State to publish an authorized and promulgated legislative rule in the Code of State Rules; adding to information that must be filed with emergency rules in the State Register; providing for effective date for emergency rule and amendment to emergency rule; requiring the agency to file a copy of the emergency rule and the required statement with the Secretary of State and LOCEA; reducing time periods the agency has for filing a notice of public hearing on a proposed emergency rule and for filing the proposed emergency rule with LOCEA; removing provision pertaining to emergency legislative rules currently in effect; making certain provisions pertaining to filing an emergency rule and disapproval of an emergency rule applicable to filing an amendment to an emergency rule and disapproval of an emergency rule; modifying provisions pertaining to LOCEA's review of procedural rules, interpretive rules, or existing legislative rules; providing for prior rules to remain

in full force and effect; modifying required sunset date; specifying procedure for renewing legislative rule; and requiring Secretary of State to file a notice of sunset in the State Register within 30 days following expiration of a legislative rule.

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

Respectfully submitted,

Eric J. Tarr,
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 548, Clarifying what parties can redeem delinquent property and limiting those entitled to bid.

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

Com. Sub. for Senate Bill 548 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §11A-3-2, §11A-3-13, §11A-3-38, §11A-3-45 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11A-3-45a; to amend and reenact §11A-3-46, §11A-3-47, §11A-3-48; to amend said code by adding thereto a new section, designated §11A-3-48a; and to amend and reenact §11A-3-56 of said code, all relating to real property taxes; modifying who is entitled to redeem real estate that is subject to delinquent taxes; modifying certain public notices regarding the certification of real estate to the Auditor; modifying who is entitled to redeem nonentered or certified lands; specifying that participation in certain auctions conducted by West Virginia Auditor constitutes transacting business in West Virginia; providing eligibility requirements to bid on tax liens at certain auctions conducted by the Auditor; providing for certain rule-making authority, including emergency rulemaking; barring certain parties from participating in auctions conducted by Auditor; modifying certain public notices regarding certain auctions conducted by the Auditor; providing for the incurrence of legal expenses related to title examinations by the West Virginia Auditor and the reimbursement for those expenses; authorizing West Virginia Auditor to refuse to sell unsold lands to potential buyers who fail to meet certain criteria; and barring certain parties from purchasing unsold lands.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
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 576, Creating Securities Restitution Assistance Fund for victims of securities violations.

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

Com. Sub. for Senate Bill 576 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §32-4-406 and §32-4-407a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article containing 12 new sections, designated §32-7-701, §32-7-702, §32-7-703, §32-7-704, §32-7-705, §32-7-706, §32-7-707, §32-7-708, §32-7-709, §32-7-710, §32-7-711, and §32-7-712, all relating generally to authorizing victim restitution and creating a restitution assistance fund for victims of securities violations; providing a short title; providing definitions; creating the Securities Restitution Assistance Fund; permitting the Auditor to transfer three percent of securities fees collected to the Securities Restitution Assistance Fund; and authorizing the awarding of restitution in an administrative assessment; providing for the manner and procedures for applications for restitution assistance; providing the manner and procedures for the payment of restitution assistance awards; detailing the situations in which restitution is prohibited; providing for subrogation; providing for a lien on recovery and refunds of excessive restitution amounts; providing for the suspension of claims; exempting the restitution awards from attachment or intercept; authorizing the Auditor to promulgate rules regarding the restitution program; and providing an effective date.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 576), under the original double committee reference, was then referred to the Committee on Finance.

Senator Rucker, from the Committee on School Choice, submitted the following report, which was received:

Your Committee on School Choice has had under consideration

Senate Bill 589, Relating to nonpublic kindergarten, elementary, and secondary school education.

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

Com. Sub. for Senate Bill 589 (originating in the Committee on School Choice)—A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §18-8-1b and §18-8-1c; to amend and reenact §18-9A-25 of said code; to amend and reenact §18-31-2 of said code; to amend said code by adding thereto a new section, designated §18-31-2a; and to amend and reenact §18-31-3, §18-31-5, §18-31-6, §18-31-7, §18-31-8, §18-31-9, §18-31-10, and §18-31-11 of said code, all relating generally to nonpublic kindergarten, elementary, and secondary school education; reorganizing provisions related to exemptions from compulsory public school attendance; relocating requirements for students receiving home instructions to a new section of the code;

relocating requirements for students attending a learning pod or microschool to a new section of the code; providing that the annual Hope Scholarship Program appropriation calculation will be based on the estimated number of participating students instead of the number of participating students in the prior year; providing that a student that is exempt from compulsory school attendance may participate in the Hope Scholarship Program if other eligibility requirements are met; defining terms; establishing eligibility requirements for the Hope Scholarship Program; permitting the State Treasurer to appear by designee at Hope Scholarship Board meetings; clarifying that all records and personally identifying information of a Hope Scholarship student, applicant, or parent is confidential and not subject to disclosure pursuant to the West Virginia Freedom of Information Act; establishing qualifying expenses under the Hope Scholarship Act; requiring the board to maintain and publish a list of all education service providers; authorizing the board to contract with independent auditors to complete Hope Scholarship Program audits; authorizing the board to promulgate legislative rules for the auditing of educational service providers; requiring education service providers conducting background screenings of employees and other persons in contact with students and to certify screening results to the board; and providing rule-making authority to disqualify education service providers based certain conduct.

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,

Patricia Puertas Rucker,
Chair.

The bill (Com. Sub. for S. B. 589), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Pensions has had under consideration

Senate Bill 590, Transferring 911 personnel from PERS to Emergency Medical Services Retirement System.

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

Com. Sub. for Senate Bill 590 (originating in the Committee on Pensions)—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 (EMSRS) under certain circumstances; providing for transfer of assets pertaining to 911 personnel; requiring certain computations to be made by the Consolidated Public Retirement Board; requiring administrative costs of the Consolidated Public Retirement Board for transfer of assets pertaining to 911 personnel be borne by participating employers in relative proportion to members employed; and terminating liability of the Public Employees Retirement System (PERS); and providing for purchase of service time through payment.

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,

Eric Nelson, Jr.,
Chair.

The bill (Com. Sub. for S. B. 590), 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 591, Allowing counties and municipalities to jointly undertake development projects.

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

Respectfully submitted,

Chandler Swope,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 596, Modifying payment for housing and maintenance of inmates.

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

Com. Sub. for Senate Bill 596 (originating in the Committee on Finance)—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; setting a per day per inmate base rate; 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; providing for official and personal liability for payment; and providing for an exception to personal liability.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Rucker, from the Committee on School Choice, submitted the following report, which was received:

Your Committee on School Choice has had under consideration

Senate Bill 601, Allowing students of certain schools to participate in extracurricular activities of public schools.

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

Com. Sub. for Senate Bill 601 (originating in the Committee on School Choice)—A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to providing that the West Virginia Secondary School Activities Commission promulgate legislative rules; and modifying eligibility requirements for participation in interscholastic athletic events and other extracurricular activities of secondary schools for students receiving home instruction.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,
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 602, Enabling WVSU and Bluefield State University to offer associate degrees.

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

Com. Sub. for Senate Bill 602 (originating in the Committee on Education)—A Bill to amend and reenact §18B-1-1f of the Code of West Virginia, 1931, as amended, relating to authorizing Bluefield State University and West Virginia State University to offer associate degrees on their campuses without Higher Education Policy Commission or Community and Technical College Council approval; and providing exception.

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,

Amy N. Grady,
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 bill contained in the foregoing report from the Committee on Education.

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 607, Authorizing counties to increase special district excise tax.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; 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, with an amendment from the Committee on Economic Development pending.

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 629, Establishing auto-renewal program for wildlife licenses.

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

Respectfully submitted,

Bill Hamilton,
Chair.

Senator Maynard, from the Committee on Outdoor Recreation, submitted the following report, which was received:

Your Committee on Outdoor Recreation has had under consideration

Eng. Com. Sub. for House Bill 2569, Establishing the Motorsport Responsibility Act.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Outdoor Recreation pending.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2757, Relating to expanding institutional eligibility for the WV Invests Grant Program.

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,

Amy N. Grady,
Chair.

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

Senator Maynard, from the Committee on Outdoor Recreation, submitted the following report, which was received:

Your Committee on Outdoor Recreation has had under consideration

House Concurrent Resolution 13, Make 2nd week of February of every year a week of recognition of the Boy Scouts of America.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Mark R. Maynard,
Chair.

The Senate proceeded to the sixth order of business.

At the request of Senator Weld, 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 652—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-1-5b; and to amend and reenact §51-11-4 of said code, all relating to Municipal Home Rule appeals; providing for appeals and grounds therefor; providing who is eligible to appeal; and providing procedures for the appeal.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 653—A Bill to amend and reenact §3-1-8 of the Code of West Virginia, 1931, as amended, relating to the criteria for political party status; and allowing a group of affiliated voters to become a recognized political party if the group's candidate receives at least one percent of the votes statewide in an election for either President or Governor.

Referred to the Committee on the Judiciary.

By Senator Maroney:

Senate Bill 654—A Bill to amend and reenact §9-8-4 of the Code of West Virginia, 1931, as amended, relating to eligibility verification for applicants for public assistance; requiring cooperation with child support enforcement as a condition of eligibility for public assistance; and authorizing rulemaking.

Referred to the Committee on Health and Human Resources.

By Senator Maynard:

Senate Bill 655—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-10-1, §49-10-2, and §49-10-3, all relating to codifying the Parents' Bill of Rights.

Referred to the Committee on the Judiciary.

By Senator Woodrum:

Senate Bill 656—A Bill to amend and reenact §21-1B-2, §21-1B-3, and §21-1B-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §21-1B-9, all relating to labor; verifying the legal employment status of all persons who come into their employ and to report their employment to the appropriate governmental agencies; providing definitions; using E-Verify the electronic verification of federal employment authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; and providing that unauthorized workers employment prohibited.

Referred to the Committee on Government Organization.

By Senator Maroney:

Senate Bill 657—A Bill to amend and reenact §33-15A-6 of the Code of West Virginia, as amended, relating to long term care insurance, providing prohibitions regarding coverage and payment; and providing effective date.

Referred to the Committee on Banking and Insurance.

By Senator Jeffries:

Senate Bill 658—A Bill to amend and reenact §8-13-5 of the Code of West Virginia, 1931, as amended, relating to clarifying municipal business and occupation taxation where business activity occurs in more than one location; defining terms to reflect the changing national economy; and authorizing the Tax Commissioner to promulgate any necessary regulations.

Referred to the Committee on Finance.

By Senator Trump:

Senate Bill 659—A Bill to amend and reenact §49-4-728, §49-4-729, §49-4-733, and §49-4-734 of the Code of West Virginia, 1931, as amended, all relating to clarifying that the juvenile competency determination process extends to status offenders.

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 660—A Bill to amend and reenact §17C-5-3 of the Code of West Virginia, 1931, as amended, relating to reckless driving; correcting an erroneous internal citation; establishing

the aggravated felony offense of reckless driving resulting in the death of another; and providing the penalties for the commission thereof.

Referred to the Committee on the Judiciary.

By Senators Roberts, Jeffries, and Tarr:

Senate Bill 661—A Bill to amend and reenact §23-5A-3 of the Code of West Virginia, 1931, as amended, relating to the clarification of preferential recall rights for employees sustaining a compensable injury; providing for a preferential recall time period of 30 days from the date the employee is released to return to his or her regular employment or 30 days from the date of the employee's demand for reinstatement, whichever time period is shorter; and providing that it is the obligation of the employee to continually seek employment during the employee's preferential recall time period.

Referred to the Committee on the Workforce.

By Senator Barrett:

Senate Bill 662—A Bill to amend and reenact §16-2D-10 of the Code of West Virginia, 1931, as amended, relating to expanding the private practice exemption; providing that private office private physicians may develop magnetic resonance imaging services without certificate of need review; and providing applicable criteria.

Referred to the Committee on Health and Human Resources.

By Senator Taylor:

Senate Bill 663—A Bill to amend and reenact §18A-4-2 of the Code of West Virginia, 1931, as amended, relating to approving overtime pay for teachers, based on a 200 day contract and hourly rate.

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

By Senator Taylor:

Senate Bill 664—A Bill to repeal §5-16-7e of the Code of West Virginia, 1931, as amended; to amend and reenact §5-16-1, §5-16-2, §5-16-3, §5-16-4, §5-16-5, §5-16-7, §5-16-7a, §5-16-7c, §5-16-7d, §5-16-8, §5-16-9, §5-16-10, §5-16-11, §5-16-12, §5-16-12a, §5-16-13, §5-16-15, §5-16-16, §5-16-17, §5-16-18, and §5-16-24 of said code; and to amend said code by adding thereto a new article, designated §5-16A-1, §5-16A-2, §5-16A-3, §5-16A-4, §5-16A-5, §5-16A-6, §5-16A-7, §5-16A-8, §5-16A-9, §5-16A-10, §5-16A-11, §5-16A-12, §5-16A-13, §5-16A-14, §5-16A-15, §5-16A-16, §5-16A-17, §5-16A-18, §5-16A-19, and §5-16A-20, all relating generally to the Public Employees Insurance Agency; providing for dissolution of the Public Employees Insurance Agency; converting state agency to employer-owned mutual insurance company; setting forth a short title; defining terms; clarifying the duties of the director; providing for private carriers to insure public employees; providing for employees of the agency to be exempt from provisions of civil service coverage; providing for personnel provisions for employees laid off in first year of operation; providing for retraining benefits for laid-off employees; providing for transfer of certain Public Employees Insurance Agency functions, rights, responsibilities, employees and assets to the Insurance Commissioner and the Public Employees Insurance Council; providing certain civil remedies to commission, mutual company and private carriers; providing for transfer of authority over certain funds to the Insurance Commissioner; providing for capital and surplus requirements of employers' mutual insurance company; providing for election of a board of directors of employers' mutual insurance company; providing for governance and organization of the new

mutual insurance company; providing for establishment of claims index to assist insurers; providing for establishment and administration of certain funds and accounts in the State Treasury; providing for adverse risk assignment plan; providing, upon meeting of certain criteria, for issuance of proclamation by the Governor; providing for preferential placement of any employee laid off after transfer of functions; providing certain retraining and other benefits; providing for novation of policies to new employers mutual insurance company; providing for requirements of a basic policy of public employees insurance; providing for setting of insurance rates; providing for collection of premiums; providing for transfer of rules to be applicable to the public employees insurance market; providing for transfer of certain assets to new mutual insurance company; providing for selection of finance board members by Governor; providing for a Public Employees Insurance Council; making technical corrections throughout; providing internal effective dates; providing for civil administrative and criminal penalties; and making conforming changes throughout.

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

By Senator Rucker:

Senate Bill 665—A Bill to amend and reenact §30-37-2 and §30-37-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-37-13, all relating to licensure requirements; amending the required hours of coursework for therapist licensure; defining terms; requiring a license to operate a massage establishment; providing establishment license requirements; prohibiting certain acts; providing for massage establishment licensure renewal, suspension, and revocation; specifying exemptions; requiring certain establishment licensees to have continuing education; and providing emergency rule-making authority.

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

Senators Stover, Chapman, Maynard, and Rucker offered the following resolution:

Senate Concurrent Resolution 12—Requesting the Division of Highways name bridge number 55-010/00-007.43 (55A250), (37.52310, -81.36703), locally known as Car Wash Bridge, carrying WV 10 over Gooney Otter Creek in Wyoming County, the "Oakey Tolliver Memorial Bridge".

Which, under the rules, lies over one day.

Senators Martin and Queen offered the following resolution:

Senate Concurrent Resolution 13—Requesting the Division of Highways name a portion of road, beginning at north and southbound 21-079/00-101.34 (39.05393, -80.40043) and ending at north and southbound County Overpass 14, carrying Interstate 79 over Rt. 14 in Lewis County as, the "Wyant Brothers Memorial Road".

Which, under the rules, lies over one day.

Senator Deeds offered the following resolution:

Senate Concurrent Resolution 14—Supporting the Medal of Valor nominees recommended by the First Responders Honor Board.

Which, under the rules, lies over one day.

Senators Maynard and Plymale offered the following resolution:

Senate Concurrent Resolution 15—Permitting the West Virginia Department of Tourism to proceed with procuring bids and interest in companies to place a lodge on the property of Beech Fork Lake.

Which, under the rules, lies over one day.

Senator Maynard offered the following resolution:

Senate Resolution 34—Recognizing February 17, 2023, as Adventure Travel Day at the Legislature.

Which, under the rules, lies over one day.

Senator Weld announced that in the meeting previously held, the Committee on Rules had returned to the Senate calendar, on second reading, **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.

Com. Sub. for Senate Concurrent Resolution 3, Dr. Roland P Sharp Memorial Road.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

Com. Sub. for Senate Concurrent Resolution 4, US Navy S1 Ira "Noon" Copley and Marie Copley Memorial Bridge.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

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

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

Senate Concurrent Resolution 8, US Army PV 2 Harold Richard Plumley Memorial Bridge.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

Senate Resolution 32, Designating February 16, 2023, as WVSU Day at Legislature.

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

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

The question being on the adoption of the resolution, and on this question, Senator Caputo demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Martin and Rucker—2.

So, a majority of those present and voting having voted in the affirmative, the Chair declared the resolution (S. R. 32) adopted.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 151, Levying tax on pass-through entity's income.

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

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

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

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

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

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.

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 579, Providing payment to vendors who provided services to state.

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

The Senate proceeded to the tenth order of business.

Com. Sub. for Senate Bill 191, Relating to liability for payment of court costs as condition of pretrial diversion agreement.

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

Com. Sub. for Senate Bill 293, Increasing fees charged by sheriff.

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

Com. Sub. for Senate Bill 303, Relating to Violent Crime Prevention Act.

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

Com. Sub. for Senate Bill 430, Relating to State Treasurer's authority to contract with financial institutions for banking goods and services.

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

Com. Sub. for Senate Bill 455, Modifying certain used car restrictions.

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

Com. Sub. for Senate Bill 526, Including Alzheimer's disease in existing public health programs.

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

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

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

The nays were: None.

Absent: Martin and Rucker—2.

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

Engrossed Committee Substitute for Senate Bill 526 was then 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, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Martin and Rucker—2.

So, a majority of all the members present and voting having voted in the affirmative, the Chair declared the bill (Eng. Com. Sub. for S. B. 526) passed with its title.

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

Senate Bill 559, Relating to spousal privilege.

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

Com. Sub. for Senate Bill 568, Relating to Dangerousness Assessment Advisory Board.

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

Senate Bill 580, Authorizing election for special levy renewal.

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

Senate Bill 605, Requiring state medical examiner to enter into contracts with procurement organization.

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

Senate Bill 609, Obtaining approval for decommissioning or deconstructing of existing power plant.

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

Eng. Com. Sub. for House Bill 2596, To modify when a nonresident student's transfer may be denied.

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

Eng. Com. Sub. for House Bill 2845, Relating to removing expired provisions from the code.

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

Eng. Com. Sub. for House Bill 3164, To extend the termination date of the West Virginia Advisory Council on Rare Diseases due to a delay in beginning its duties.

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

Eng. House Bill 3272, Relating to the operation of private trust companies in West Virginia.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Plymale.

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

The Senate proceeded to the thirteenth order of business.

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 resolution on February 15, 2023:

Senate Bill 101: Senator Rucker;

Senate Bill 193: Senator Rucker;

Com. Sub. for Senate Bill 447: Senator Maynard;

Senate Bill 552: Senators Barrett, Hunt, and Chapman;

Senate Bill 576: Senator Stuart;

Senate Bill 589: Senator Roberts;

Senate Bill 590: Senator Queen;

Senate Bill 622: Senator Queen;

Senate Bill 627: Senator Oliverio;

Senate Bill 630: Senator Barrett;

Senate Bill 632: Senators Taylor;

Senate Bill 633: Senator Trump and Deeds;

Senate Bill 634: Senators Trump and Clements;

Senate Bill 635: Senators Deeds and Plymale;

Senate Bill 636: Senator Plymale;

Senate Bill 638: Senators Swope, Rucker, Jeffries, and Clements;

Senate Bill 641: Senator Trump;

Senate Bill 642: Senator Trump;

Senate Bill 650: Senator Deeds;

Senate Bill 651: Senator Deeds;

And,

Senate Resolution 32: Senators Hamilton, Rucker, and Plymale.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 11:50 a.m., the Senate adjourned until tomorrow, Friday, February 17, 2023, at 9:30 a.m.

SENATE CALENDAR

**Friday, February 17, 2023
9:30 AM**

UNFINISHED BUSINESS

- S. C. R. 12 - Oakey Tolliver Memorial Bridge
- S. C. R. 13 - Wyant Brothers Memorial Road
- S. C. R. 14 - Supporting Medal of Valor nominees recommended by First Responders Honor Board
- S. C. R. 15 - Permitting Department of Tourism to procure bids for lodge on Beech Fork Lake
- S. R. 34 - Recognizing February 17, 2023, as Adventure Travel Day at Legislature
- H. C. R. 13 - Make 2nd week of February of every year a week of recognition of the Boy Scouts of America.

THIRD READING

- Eng. Com. Sub. for S. B. 151 - Levying tax on pass-through entity's income
- Eng. S. B. 452 - Relating to Emergency Medical Services Retirement System (original similar to HB3242)
- Eng. 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)
- Eng. S. B. 458 - Setting rate of interest on delinquent retirement contribution submissions (original similar to HB3241)
- Eng. S. B. 474 - Requiring municipal pensions oversight board to propose legislative rules (original similar to HB3244)
- Eng. Com. Sub. for S. B. 579 - Providing payment to vendors who provided services to state

SECOND READING

- Com. Sub. for S. B. 191 - Relating to liability for payment of court costs as condition of pretrial diversion agreement
- Com. Sub. for S. B. 293 - Increasing fees charged by sheriff (original similar to HB3466)
- Com. Sub. for S. B. 303 - Relating to Violent Crime Prevention Act
- Com. Sub. for S. B. 430 - Relating to State Treasurer's authority to contract with financial institutions for banking goods and services
- Com. Sub. for S. B. 455 - Modifying certain used car restrictions
- S. B. 559 - Relating to spousal privilege

Com. Sub. for S. B. 568 - Relating to Dangerousness Assessment Advisory Board

S. B. 580 - Authorizing election for special levy renewal

S. B. 605 - Requiring state medical examiner to enter into contracts with procurement organization

S. B. 609 - Obtaining approval for decommissioning or deconstructing of existing power plant - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2596 - To modify when a nonresident student's transfer may be denied - (Com. amends. and title amend. pending)

Eng. Com. Sub. for H. B. 2845 - Relating to removing expired provisions from the code

Eng. Com. Sub. for H. B. 3164 - To extend the termination date of the West Virginia Advisory Council on Rare Diseases due to a delay in beginning its duties

Eng. H. B. 3272 - Relating to the operation of private trust companies in West Virginia

FIRST READING

S. B. 488 - Aligning state and federal accreditation rules

Com. Sub. for Com. Sub. for S. B. 543 - Authorizing rule-making changes to terms, procedures and reporting duties in higher education

Com. Sub. for S. B. 548 - Clarifying what parties can redeem delinquent property and limiting those entitled to bid

S. B. 591 - Allowing counties and municipalities to jointly undertake development projects

Com. Sub. for S. B. 596 - Modifying payment for housing and maintenance of inmates

Com. Sub. for S. B. 601 - Providing that WV Secondary School Activities Commission promulgate legislative rules

Com. Sub. for S. B. 602 - Enabling WVSU and Bluefield State University to offer associate degrees

S. B. 629 - Establishing auto-renewal program for wildlife licenses

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2023

Friday, February 17, 2023

10 a.m.

Workforce

(Room 208W)