

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE
REGULAR SESSION, 2023
FORTY-FOURTH DAY

Charleston, West Virginia, Thursday, February 23, 2023

The Senate met at 11 a.m.

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

Prayer was offered by the Very Reverend Donald X. Higgs, Basilica of the Co-Cathedral of the Sacred Heart, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert H. Plymale, a senator from the fifth district.

Pending the reading of the Journal of Wednesday, February 22, 2023,

At the request of Senator Barrett, 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 Clerk presented the following communication from a state agency as required by the provisions of law:

Development Office (Tax Increment Financing) (§7-11B-15)

The Senate proceeded to the third order of business.

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

Eng. House Bill 2283—A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended, relating to authorized expenditures of revenues from certain state funds for fire departments; clarifying and expanding categories of allowable expenditures; permitting state grant funds to be deposited into a state account and be transferred from the account for unrestricted use; and setting forth a 60-day time frame for fire departments receiving grant funds to transfer unrestricted funds from a restricted account.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended with its Senate amended title, of

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

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 2937—A Bill to amend and reenact §47-21-7 of the Code of West Virginia, 1931, as amended, relating to reducing the license fee paid to the Tax Commissioner for annual Raffle licenses for volunteer fire departments to \$250.

Referred to the Committee on Finance.

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, of

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

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 3233—A Bill to amend and reenact §15-1B-11 of the Code of West Virginia, 1931, as amended, relating generally to uniform and equipment allowances for the National Guard.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended with its Senate amended title, of

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

Executive Communications

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



Jim Justice
Governor of West Virginia

February 22, 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, is the following bill:

Committee Substitute for House Bill No. Two Thousand Four Hundred Twelve (2412), which was presented to me on February 20, 2023.

You will note that I have approved this bill on February 22, 2023.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis



Jim Justice
Governor of West Virginia

February 22, 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, is the following bill:

House Bill No. Two Thousand Six Hundred Two (2602), which was presented to me on February 16, 2023.

You will note that I have approved this bill on February 22, 2023.

Sincerely,

A handwritten signature in blue 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

Com. Sub. for Senate Bill 267, Updating law regarding prior authorizations.

And,

Senate Bill 438, Return to WV Tax Credit Act.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 522 (originating in the Committee on Government Organization), Allocating percentage of county excise taxes for funding improvements to election administration.

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

Com. Sub. for Com. Sub. for Senate Bill 522 (originating in the Committee on Finance)—A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to allocating a percentage of county excise taxes received from transfers of title to real estate in each county for funding improvements to election administration, infrastructure, and physical and cyber security; accelerating rate at which counties retain excise taxes from transfers of title to real estate in county; allocating a percentage of county excise taxes received from transfers of title to real estate in each county for funding other county purposes including, but not limited to, compliance with the Uniform Real Property Electronic Recording Act; authorizing the Secretary of State to promulgate legislative rules establishing minimum adequate funding thresholds and standards based on county classification for improving election administration, infrastructure, and security; and authorizing county clerks to reallocate the excess portion of funding for improving election administration, infrastructure, and security to other approved county purposes upon determination by the Secretary of State that the minimum funding thresholds and standards have been met.

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 534, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements.

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

Com. Sub. for Senate Bill 534 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §11-16-3, §11-16-6a, §11-16-6d, §11-16-6f, §11-16-8, §11-16-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3A-3a and §60-3A-8 of said code; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-2, §60-7-2a, §60-7-6, and §60-7-8a of said code; to amend said code by adding thereto a new section, designated §60-8-6g; to amend and reenact §60-8A-5 of said code; and to amend and reenact §61-8-27 of said code; all relating to nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor license requirements; defining terms; creating special permit for Class A licensees who apply to be qualified permit holders to operate in private outdoor designated areas, setting forth requirements, and setting fees; promoting tourism in the state by permitting authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries a limited off-site retail privilege for off-premises consumption sales for nonintoxicating beer manufactured by them and permitting limited complimentary samples at private fair and festivals; providing requirements for the conduct of the sales at private fairs and festivals; requiring payment of taxes, fees and markups, and no license fee; clarifying the nonintoxicating beer growler requirements for contents and sealing; allowing brewer and resident brewer to have additional places of manufacture under one license and based on manufacturing volume capacity; removing limit on nonintoxicating beer or nonintoxicating craft beer which may be included with an order, sale or delivery of multiple meals; allowing commissioner to refuse a license if applicant or manager is not a suitable applicant; increasing number and size of liquor samples that are permitted; requiring manager to be suitable applicant and of good moral character; reducing and modifying food inventory required for private cigar shop, private club bars, and private food truck; allowing a private manufacturer club to have operating food truck or other portable kitchen in lieu of on-premises food preparation facilities; removing acreage requirement for private wedding venue or barn license; clarifying nonintoxicating beer license requirements for persons, trusts and fairs and festivals; clarifying retail liquor outlet license requirements for applicants; clarifying that the statute applying to distilleries and mini-distilleries also applies to micro-distilleries; permitting dually licensed events, and a license fee; creating a private coliseum or center license and specifying license requirements; authorizing private coliseum or center license to conduct a temporary event in conjunction with a private fair and festival licensee and setting forth requirements; setting fees; increasing fee for private fair and festival special license and fee; creating a private food court license and specifying license requirements; lawful admission to dance hall; clarifying dual licensing requirements and authorization for private fair and festivals, requirements, and no license fee; permitting private fairs and festivals to conduct on-premises consumption sales with certain requirements; permitting private fairs and festivals to allow authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries to conduct limited off-premises consumption retail sales with certain requirements from the private fair and festival's licensed premises; permitting a private wine restaurant to operate a separately licensed but connected wine specialty shop; and exempting permit holder operating a private outdoor designated area, private coliseum or center licensee, or private food court from prohibition on admitting persons under the age of 18.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 561 (originating in the Committee on Agriculture and Natural Resources), Relating to administration of WV Drinking Water Treatment Revolving Fund Act.

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

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

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 561) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 590 (originating in the Committee on Pensions), 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 Com. Sub. for Senate Bill 590 (originating in the Committee on Finance)—A Bill to amend and reenact §16-5V-2, §16-5V-6, and §16-5V-14a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a two new sections, designated §16-5V-6c and §16-5V-6d, all relating to the Emergency Medical Services Retirement System; defining terms; updating terms to comply with federal laws; authorizing certain 911 personnel to be members of the Emergency Medical Services Retirement System under certain circumstances; requiring costs of the vote to participate be borne by participating employers in relative proportion to members employed; 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; terminating liability of the Public Employees Retirement System; and providing for purchase of service time through payment.

With the recommendation that the committee substitute for 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 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs.

And has amended same.

And,

Eng. Com. Sub. for House Bill 2820, To provide HOPE Scholarship recipients with the ability to play sports.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, one of the bills (S. B. 625) contained in the preceding report from the Committee on School Choice was taken up for immediate consideration, read a first time, and ordered to second reading.

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 628, Revising provisions related to public charter schools.

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

Com. Sub. for Senate Bill 628 (originating in the Committee on School Choice)—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.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Grady, as chair of the Committee on Education, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on School Choice.

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

Your Committee on Education has had under consideration

Senate Bill 667, Requiring periodic performance audits of WV Secondary Schools Athletic Commission.

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

Com. Sub. for Senate Bill 667 (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25e, relating to requiring the Legislative Auditor to conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Amy N. Grady,
Chair.

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

Your Committee on Economic Development has had under consideration

Senate Bill 677, Clarifying role and responsibilities of State Resiliency Officer.

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

Com. Sub. for Senate Bill 677 (originating in the Committee on Economic Development)—A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; to repeal §15-5-4b, §15-5-4c, §15-5-24, §15-5-25, and §15-5-26, and of said code; to amend and reenact §29-31-1 and §29-31-2 of said code; to amend said code by adding thereto eleven new sections, designated §29-31-2a, §29-31-6, §29-31-7, §29-31-8, §29-31-9, §29-31-10, §29-31-11, §29-31-12, §29-31-13, §29-31-14, and §29-31-15; and to amend and reenact §29-31-3 of said code, all relating to the West Virginia Disaster Recovery Trust Fund and clarification of roles and responsibilities of the State Resiliency Officer; requiring the State Resiliency Officer to submit a new Flood Resiliency Plan by a date certain and then biannually thereafter; directing the State Resiliency Officer to hire additional staff; removing the West Virginia Disaster Recovery Trust Fund from the jurisdiction of the Division of Homeland Security and Emergency Management; providing initial capital for the State Resiliency Office; allowing for disbursement of post-disaster recovery assistance; requiring that 50 percent of disbursements be expended to benefit low-income communities; requiring resilience and mitigation certifications prior to disbursement to political subdivisions; requiring the State Resiliency Officer to develop an annual expenditure report; establishing the West Virginia Resiliency Trust Fund within the State Resiliency and Flood Protection Act; requiring 50 percent of disbursements be expended to implement nature-based solutions; allowing for grants to political subdivisions for both Flood Resiliency Plan implementation and local flood prevention and protection studies; and requiring 25 percent of Community Development Block Grant Disaster Recovery Funds received by the state as a result of a flood disaster to be deposited in the Flood Resiliency Trust Fund.

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

Respectfully submitted,

Glenn D. Jeffries,
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 Economic Development.

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 2062, Establish rules and regulations for e-bikes in West Virginia that more closely comport to federal law.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on Economic Development has had under consideration

Eng. House Bill 3307, Establishing the West Virginia-Ireland Trade Commission.

And has amended same.

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

Respectfully submitted,

Glenn D. Jeffries,
Chair.

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

Your Committee on Economic Development has had under consideration

Eng. House Bill 3428, Relating to the West Virginia Business Ready Sites Program.

And has amended same.

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

Respectfully submitted,

Glenn D. Jeffries,
Chair.

The Senate proceeded to the sixth order of business.

Senators Woodrum and Trump offered the following resolution:

Senate Concurrent Resolution 19—Requesting the Joint Committee on Government Organization study the operations of the Division of Personnel; to study the feasibility of transferring the division's functions to individual agencies; and to determine if agencies should be provided rule-making authority to effectuate their new functions.

Which, under the rules, lies over one day.

Senator Clements offered the following resolution:

Senate Resolution 38—Designating February 24, 2023, as Corrections Day at the Legislature.

Which, under the rules, lies over one day.

Senator Maynard offered the following resolution:

Senate Resolution 39—Recognizing February 24, 2023, as West Virginia Motorsports Day at the Legislature.

Which, under the rules, lies over one day.

At the request of Senator Takubo, unanimous consent being granted, the Senate reconsidered its action by which on February 1, 2023, it adopted Senator Takubo's amendments to the House of Delegates amendments to

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

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Takubo's amendments to the House of Delegates amendment to the bill (*shown in the Senate Journal of February 1, 2023, pages 7 to 14, inclusive*).

Thereafter, at the request of Senator Takubo, and by unanimous consent, Senator Takubo's amendments to the House of Delegates amendments to the bill were withdrawn.

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

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

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**§15-5-2. Definitions.**

As used in this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

which is duly proclaimed under such circumstances shall be referred to as a "Class II state of preparedness"; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The existence of a state of preparedness may be proclaimed by the Governor by executive order or by concurrent resolution of the Legislature, if the Governor in the proclamation or the

Legislature in the resolution, finds that conditions warranting the proclamation of a state of preparedness, as defined in this article, exist, and that the health, safety, and welfare of the inhabitants of this state require the invocation of the provisions of this section: *Provided*, That the Governor or the Legislature shall proclaim a state of preparedness as a "Class I state of preparedness" or a "Class II state of preparedness", as defined in this article, by law: *Provided however*, That a gubernatorially proclaimed Class I state of preparedness expires 30 days after issuance of the executive order unless, prior to the 30th day, the Legislature adopts a concurrent resolution extending the state of preparedness beyond 30 days. A concurrent resolution adopted by the Legislature to extend a Class I state of preparedness proclaimed by the governor shall set forth within its terms the length of time for which the state of preparedness shall be extended. A Class II state of preparedness, whether proclaimed by the Governor or by the Legislature, terminates upon the issuance of a proclamation of termination by the Governor, or the passage by the Legislature of a concurrent resolution terminating the Class II state of preparedness.

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

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

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

(2) A designation of the geographic area threatened.

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

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

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

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

(3) To procure materials and facilities for emergency services by purchase, condemnation under the provisions of §54-1-1 *et seq.* of this code, or seizure pending institution of condemnation proceedings within 30 days from the seizing thereof and to construct, lease, transport, store,

maintain, renovate, or distribute the materials and facilities. Compensation for the procured property shall be made in the manner provided in §54-1-1 et seq. of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

Engrossed Senate Bill 128, as 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 128) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: 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. S. B. 128) takes effect from passage.

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

Senator Karnes moved that the Senate Committee on Health and Human Resources be discharged from further consideration of

Senate Bill 584, Removing rape and incest exception to obtain abortion in WV.

The question being on the adoption of the aforesaid motion by Senator Karnes, and on this question, Senator Karnes demanded the yeas and nays.

Senator Takubo moved that the aforesaid motion by Senator Karnes be tabled.

Following a point of inquiry to the President, with resultant response thereto,

The question now being on the adoption of Senator Takubo's motion that the aforesaid motion by Senator Karnes be tabled, and on this question, Senator Karnes demanded the yeas and nays.

The roll being taken, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Maroney, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—29.

The nays were: Azinger, Karnes, Martin, Roberts, and Rucker—5.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Takubo's aforesaid motion had prevailed and the motion by Senator Karnes was thereafter tabled.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the fourth order of business.

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 Concurrent Resolution 20 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on the Judiciary study the operations of the West Virginia Board of Risk and Insurance Management (BRIM), including, but not limited to, whether BRIM should continue to provide coverage for persons and entities covered by BRIM, the handling of claims filed against entities covered by BRIM, BRIM's policy on the charging of premiums to insured entities, and BRIM's activities to mitigate risk and prevent losses by activities to which it provides coverage.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Com. Sub. for Senate Bill 195, Glucagon for Schools Act.

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 Com. Sub. for S. B. 195) 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 480, Modifying group accident and sickness insurance requirements.

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. 480) 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 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 577 pass?"

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, 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)—32.

The nays were: Azinger and Karnes—2.

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. 577) 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 594, Specifying fairness in cost sharing calculations for certain high deductible health plans.

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. 594) 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. 594) 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 597, Allowing Workforce WV to hire classified service exempt employees.

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. 597) 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 608, Correcting list of items which are considered deadly weapons.

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. 608) 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 620, Increasing maximum number of registered voters per precinct and distance between polling places.

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

Pending discussion,

The question being "Shall Engrossed Senate Bill 620 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Maynard, Nelson, Oliverio, Phillips, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—27.

The nays were: Barrett, Caputo, Chapman, Martin, Plymale, Queen, and Woelfel—7.

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. 620) 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 631, Updating administration, funding, and requirements for federal elections held in WV.

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. 631) 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 641, Clarifying when magistrate vacancies shall be filled.

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. 641) 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 644, Updating contested elections procedures.

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. 644) 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 661, Clarifying preferential recall rights for employees sustaining compensable injury.

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, 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, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo and Woelfel—2.

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. 661) passed.

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

Eng. Com. Sub. for 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 employee to make written demand for reinstatement and mailing demand to the employer's principal office; removing provision for restoring employee to a comparable position; providing for a preferential recall time period of 90 days from the date the employee is released to return to regular employment; providing that it is the obligation of the employee to continually seek employment during the employee's preferential recall time period; and removing provision relating to preferential right of recall for a one-year period.

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

Eng. Com. Sub. for House Bill 3122, Permitting certain types of rifles using an encapsulated propellant charge that loads from the breech.

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 H. B. 3122) passed with its title.

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

Eng. House Bill 3141, Relating to the practice of dentistry.

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. H. B. 3141) passed with its title.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 79, Relating to compensable diseases of certain firefighters covered by workers' compensation.

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

Com. Sub. for Com. Sub. for Senate Bill 268, Relating to PEIA.

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 423, Increasing salary for certain state employees.

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 554, Exempting purchases made by Auditor and WV Enterprise Resource Planning Board from certain provisions of WV code.

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 616, WV Veterans' Home Loan Mortgage Program of 2023.

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 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

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 646, Creating emeritus physician license.

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 649, Authorizing Berkeley County Council to change its name to Berkeley County Commission.

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 656, Verifying legal employment status of workers to governmental agencies.

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 657, WV Long-Term Care Insurance Act.

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

Senate Bill 678, Adding appropriations to DHHR, Division of Human Services.

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 730, Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability.

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

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

On page 3, section 7, line 21, by striking out the word "designed" and inserting in lieu thereof the word "designated".

The bill (Com. Sub. for S. B. 730), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Senate Bill 462, Modifying certain guidelines for motor vehicle dealers, distributors, wholesalers, and manufacturers.

Com. Sub. for Senate Bill 469, Providing funding for CPR instruction to high school students.

Senate Bill 544, Increasing power purchase agreement cap.

Com. Sub. for Senate Bill 558, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media.

Com. Sub. for Com. Sub. for Senate Bill 585, Prohibiting county commissions from adopting any authorization that exceeds state law regarding agricultural operations.

Com. Sub. for Senate Bill 613, Relating generally to certificates of need.

Senate Bill 619, Allowing teachers in public schools to teach intelligent design.

Com. Sub. for Senate Bill 665, Amending licensure requirements for massage therapist.

Com. Sub. for Senate Bill 676, Requiring report on Medicaid fees and managed care provider reimbursements compared to PEIA, Medicare, and surrounding states.

Eng. Com. Sub. for House Bill 2993, Relating to rural emergency hospital licensure.

Eng. Com. Sub. for House Bill 3113, Requiring high school students to complete course of study in personal finance.

And,

Eng. Com. Sub. for House Bill 3317, Relating to removing specific continuing education requirements.

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

The Senate then proceeded to the thirteenth order of business.

The following communication was reported by the Clerk:

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



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

February 23, 2023

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

Dear Governor Justice,

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

Com. Sub. for S. B. 89 - Requiring hospitals to staff qualified personnel to perform sexual assault forensic exams.

This bill is presented to you on this day, February 23, 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 23, 2023

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

Dear Governor Justice,

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

Com. Sub. for H. B. 2845, Relating to removing expired provisions from the code;

And,

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.

These bills are presented to you on this day, February 23, 2023.

Respectfully submitted,

A handwritten signature in cursive script, 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 senator was removed as a co-sponsor of the following bill on February 22, 2023:

Senate Bill 468: Senator Stover.

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 22, 2023:

Senate Bill 1: Senator Hamilton;

Senate Bill 15: Senator Maroney;

Senate Bill 52: Senators Maynard, Hunt, Karnes, and Caputo;

Senate Bill 220: Senators Stuart and Hamilton;

Senate Bill 438: Senator Nelson;

Senate Bill 549: Senator Phillips;

Senate Bill 550: Senators Smith, Phillips, Stuart, Karnes, Rucker, Stover, Clements, Woodrum, Roberts, and Martin;

Senate Bill 552: Senator Queen;

Senate Bill 572: Senator Hamilton;

Com. Sub. for Senate Bill 576: Senator Smith;

Senate Bill 623: Senator Maroney;

Senate Bill 638: Senator Maroney;

Senate Bill 651: Senator Maroney;

Senate Bill 660: Senator Hamilton;

Senate Bill 673: Senator Azinger;

Senate Bill 677: Senator Rucker;

Senate Bill 697: Senator Karnes;

Senate Joint Resolution 7: Senator Karnes;

And,

Senate Resolution 37: Senators Karnes and Maroney.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 12:09 p.m., the Senate adjourned until tomorrow, Friday, February 24, 2023, at 11 a.m.

SENATE CALENDAR

**Friday, February 24, 2023
11:00 AM**

UNFINISHED BUSINESS

- S. C. R. 19 - Requesting Joint Committee on Government Organization study operations of Division of Personnel
- S. C. R. 20 - Requesting Joint Committee on Judiciary study operations of WV BRIM
- S. R. 38 - Designating February 24, 2023, as Corrections Day at Legislature
- S. R. 39 - Recognizing February 24, 2023, as WV Motorsports Day at Legislature

THIRD READING

- Eng. Com. Sub. for Com. Sub. for S. B. 79 - Relating to compensable diseases of certain firefighters covered by workers' compensation
- Eng. Com. Sub. for Com. Sub. for S. B. 268 - Relating to PEIA
- Eng. Com. Sub. for S. B. 423 - Increasing salary for certain state employees
- Eng. Com. Sub. for S. B. 554 - Exempting purchases made by Auditor and WV Enterprise Resource Planning Board from certain provisions of WV code (original similar to HB3262)
- Eng. Com. Sub. for S. B. 616 - WV Veterans' Home Loan Mortgage Program of 2023
- Eng. Com. Sub. for S. B. 617 - Relating to Intellectual and Development Disabilities Waiver Program Workforce Study
- Eng. Com. Sub. for S. B. 646 - Creating emeritus physician license
- Eng. Com. Sub. for S. B. 649 - Authorizing Berkeley County Council to change its name to Berkeley County Commission
- Eng. Com. Sub. for S. B. 656 - Verifying legal employment status of workers to governmental agencies
- Eng. Com. Sub. for S. B. 657 - WV Long-Term Care Insurance Act
- Eng. S. B. 678 - Adding appropriations to DHHR, Division of Human Services
- Eng. Com. Sub. for S. B. 730 - Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability

SECOND READING

- Com. Sub. for S. B. 462 - Modifying certain guidelines for motor vehicle dealers, distributors, wholesalers, and manufacturers

Com. Sub. for S. B. 469 - Providing funding for CPR instruction to high school students (original similar to HB3501)

S. B. 544 - Increasing power purchase agreement cap.

Com. Sub. for S. B. 558 - Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media

Com. Sub. for Com. Sub. for S. B. 561 - Relating to administration of WV Drinking Water Treatment Revolving Fund Act

Com. Sub. for Com. Sub. for S. B. 585 - Prohibiting county commissions from adopting any authorization that exceeds state law regarding agricultural operations

Com. Sub. for S. B. 613 - Relating generally to certificates of need

S. B. 619 - Allowing teachers in public schools to teach intelligent design

S. B. 625 - Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs - (Com. title amend. pending)

Com. Sub. for S. B. 665 - Amending licensure requirements for massage therapist

Com. Sub. for S. B. 676 - Requiring report on Medicaid fees and managed care provider reimbursements compared to PEIA, Medicare, and surrounding states

Eng. Com. Sub. for H. B. 2993 - Relating to rural emergency hospital licensure - (Com. amend. pending)

Eng. Com. Sub. for H. B. 3113 - Requiring high school students to complete course of study in personal finance - (Com. amend. pending)

Eng. Com. Sub. for H. B. 3317 - Relating to removing specific continuing education requirements - (Com. amend. and title amend. pending)

FIRST READING

Com. Sub. for S. B. 267 - Updating law regarding prior authorizations

S. B. 438 - Return to WV Tax Credit Act

Com. Sub. for Com. Sub. for S. B. 522 - Allocating percentage of county excise taxes for funding improvements to election administration

Com. Sub. for S. B. 534 - Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements

Com. Sub. for Com. Sub. for S. B. 590 - Emergency Medical Services Retirement System Act

Com. Sub. for S. B. 628 - Revising provisions related to public charter schools

Com. Sub. for S. B. 667 - Requiring periodic performance audits of WV Secondary Schools Athletic Commission

Com. Sub. for S. B. 677 - Clarifying role and responsibilities of State Resiliency Officer

Eng. Com. Sub. for H. B. 2062 - Establish rules and regulations for e-bikes in West Virginia that more closely comport to federal law

Eng. Com. Sub. for H. B. 2820 - To provide HOPE Scholarship recipients with the ability to play sports - (Com. amends. pending)

Eng. H. B. 3307 - Establishing the West Virginia-Ireland Trade Commission - (Com. amend. and title amend. pending)

Eng. H. B. 3428 - Relating to the West Virginia Business Ready Sites Program - (Com. amend. and title amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2023

Friday, February 24, 2023

9 a.m.	Agriculture & Natural Resources	(Room 208W)
10 a.m.	Finance	(Room 451M)
10 a.m.	Judiciary	(Room 208W)
10:50 a.m.	Rules	(Room 219M)