

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

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

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Charleston, West Virginia, Saturday, February 25, 2023

The Senate met at 10 a.m.

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

Prayer was offered by David Lavender, Senate Sergeant at Arms, Hurricane, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jay Taylor, a senator from the fourteenth district.

Pending the reading of the Journal of Friday, February 24, 2023,

At the request of Senator Karnes, 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:

Medicine, Board of (§30-1-12)

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

Senator Oliverio offered the following resolution:

**Senate Resolution 40**—Designating February 27, 2023, as Human Resources Day at the Legislature.

Which, under the rules, lies over one day.

Senators Blair (Mr. President), Trump, and Rucker offered the following resolution:

**Senate Resolution 41**—Recognizing Leadership Berkeley for its services, dedication, and commitment to Berkeley County, West Virginia.

Which, under the rules, lies over one day.

Senator Takubo offered the following resolution:

**Senate Resolution 42**—Recognizing the contributions of AARP West Virginia and its Capitol Advocacy Team of volunteers to the betterment of our state and its people.

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

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

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

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's first reading calendar.

**Eng. Com. Sub. for Senate Bill 423**, Increasing salary for certain state employees.

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

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's first reading calendar, following consideration of Engrossed Committee Substitute for Committee Substitute for Senate Bill 268, already placed in that position.

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

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 462) 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 469**, Providing funding for CPR instruction to high school students.

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 469) passed with its title.

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

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 469) takes effect July 1, 2023.

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

**Eng. Senate Bill 544**, Increasing power purchase agreement cap.

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, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Maroney, Martin, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—28.

The nays were: Caputo, Chapman, Karnes, Maynard, and Phillips—5.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 544) 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 558**, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media.

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 558 pass?"

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 558) 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 Com. Sub. for Senate Bill 561**, Relating to administration of WV Drinking Water Treatment Revolving Fund Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, February 24, 2023, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

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

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, Stover, Stuart, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Taylor—1.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 585) 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 613**, Relating generally to certificates of need.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, February 24, 2023, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

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

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, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Oliverio, Phillips, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Weld, Woodrum, and Blair (Mr. President)—27.

The nays were: Caputo, Hamilton, Nelson, Plymale, Trump, and Woelfel—6.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 619) 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 625**, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs.

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 625) passed.

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

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

*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 665**, Amending licensure requirements for massage therapist.

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, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Karnes—1.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 665) 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 676**, Requiring report on Medicaid fees and managed care provider reimbursements compared to PEIA, Medicare, and surrounding states.

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 676) 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 House Bill 2993**, Relating to rural emergency hospital licensure.

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2993) 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 House Bill 3113**, Requiring high school students to complete course of study in personal finance.

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3113) 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 House Bill 3317**, Relating to removing specific continuing education 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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3317) passed.

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

**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 continuing education requirements; establishing

requirements for initial license; establishing timeframe for completion of continuing education training for initial license; removing continuing education requirements; removing associated continuing education completion timeframes; and removal of waiver process.

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3317) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 150**, Budget Bill.

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

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's first reading calendar, following consideration of Engrossed Committee Substitute for Senate Bill 423, already placed in that position.

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

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

On motion of Senator Maroney, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page 5, section 7f, line 84, by striking out the words "adverse decision" and inserting in lieu thereof the words "appeal submission";

On page 10, section 31, lines 74-75, by striking out the words "adverse decision" and inserting in lieu thereof the words "appeal submission";

On page 14, section 4s, line 79, by striking out the words "adverse decision" and inserting in lieu thereof the words "appeal submission";

On page 19, section 3dd, line 79, by striking out the words "adverse decision" and inserting in lieu thereof the words "appeal submission";

On page 24, section 7s, line 79, by striking out the words "adverse decision" and inserting in lieu thereof the words "appeal submission";



On page 29, section 8p, line 79, by striking out the words "adverse decision" and inserting in lieu thereof the words "appeal submission";

And,

On page 34, section 8s, line 84, by striking out the words "adverse decision" and inserting in lieu thereof the words "appeal submission".

The bill (Com. Sub. for S. B. 267), as amended, was then ordered to engrossment and third reading.

**Senate Bill 438**, Return to WV Tax Credit Act.

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 522**, Allocating percentage of county excise taxes for funding improvements to election administration.

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

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

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

**Com. Sub. for Com. Sub. for Senate Bill 576**, Creating Securities Restitution Assistance Fund for victims of securities violations.

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 590**, Emergency Medical Services Retirement System Act.

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

**Com. Sub. for Senate Bill 628**, Revising provisions related to public charter schools.

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

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

**Com. Sub. for Senate Bill 667**, Requiring periodic performance audits of WV Secondary Schools Athletic 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 677**, Clarifying role and responsibilities of State Resiliency Officer.

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

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

**Senate Bill 679**, Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes.

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 688**, Allowing BOE to hire retired teachers to assist with tutoring.

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

**Senate Bill 733**, Relating to wildlife licenses and stamps.

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

**Senate Bill 735**, Clarifying department responsible for administration of certain programs.

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

**Senate Bill 737**, Emergency Medical Services Act.

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

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

**Eng. Com. Sub. for House Bill 2062**, Establish rules and regulations for e-bikes in West Virginia that more closely comport to federal law.

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

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

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

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules with the unreported School Choice committee amendment to the bill pending.

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

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Economic Development committee amendment pending and the right for further amendments to be considered on that reading.

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

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Economic Development committee amendment pending and the right for further amendments to be considered on that 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 62**, Establishing secondary location for racetrack video lottery terminals.

**Com. Sub. for Senate Bill 220**, Industrial Hemp Development Act.

**Com. Sub. for Senate Bill 422**, Requiring public schools to publish curriculum online at beginning of each new school year.

**Com. Sub. for Com. Sub. for Senate Bill 440**, Authorizing DOH pay current obligations from State Road Fund.

**Com. Sub. for Senate Bill 476**, Exempting managed care contracts from purchasing requirements.

**Com. Sub. for Senate Bill 541**, Providing for election reforms.

**Com. Sub. for Senate Bill 546**, Adding and removing certain compounds from controlled substance list.

**Com. Sub. for Senate Bill 547**, Increasing penalties for drug possession and updating list of offenses.

**Com. Sub. for Senate Bill 572**, Reforming cause of action for public nuisance.

**Com. Sub. for Senate Bill 573**, Relating to child support guidelines and Support Enforcement Commission.

**Com. Sub. for Senate Bill 634**, Increasing value at which municipal property must be sold through public auction.

**Com. Sub. for Senate Bill 650**, Allowing physician assistants to own practice.

**Com. Sub. for Senate Bill 660**, Establishing aggravated felony offense of reckless driving resulting in death.

**Com. Sub. for Senate Bill 666**, Placing cap on maximum penalty that may be imposed for first-degree robbery.

**Com. Sub. for Senate Bill 681**, Clarifying that juvenile competency determination process extends to status offenders.

**Senate Bill 732**, Prohibiting insurer from imposing copayment for certain services.

**Senate Bill 734**, Requiring adoption of cloud computing services by state agencies.

**Senate Bill 736**, Establishing three-year nontraditional school week pilot project.

**Eng. House Bill 3218**, Relating to requiring suicide prevention resources be printed on student identification cards.

And,

**Eng. Com. Sub. for House Bill 3308**, Authorizing PSC consider and issue financing orders to certain utilities to permit the recovery of certain costs through securitization via consumer rate relief bonds.

At the request of Senator Woelfel, and by unanimous consent, Senator Woelfel addressed the Senate regarding Senate Bill 726 (*Preventing compensatory damage awards for outstanding medical expenses*).

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

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

On motion of Senator Takubo, at 10:47 a.m., the Senate recessed until 1:30 p.m. today.

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The Senate reconvened at 1:44 p.m. and, at the request of Senator Jeffries, unanimous consent being granted, returned to the second order of business and the introduction of guests.

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

**Eng. Com. Sub. for House Bill 2526**, Relating to reducing the personal income tax.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on Finance on February 24, 2023;

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

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2526) contained in the preceding report from the Committee on Finance was taken up for immediate consideration and read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk:

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

**ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX ADJUSTMENT ACT.**

**§11-13MM-1. Findings and Purpose**

(a) This article shall be known and cited as the West Virginia Property Tax Adjustment Act.

(b) The Legislature finds that the encouragement of economic growth and development in this state is in the public interest and promotes the general welfare of the people of this state. In order to encourage capital investment in business and industry in this state and thereby increase economic development, there is hereby provided certain tax credits against the taxes imposed under §11-21-1 et seq. of this code, or against the tax imposed under §11-24-1 et seq. of this code based upon the amount of property tax timely paid on certain property subject to ad valorem property taxation.

**§11-13MM-2. Definitions.**

(a) General. — When used in this article, or in the administration of this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section unless a different meaning is clearly required by the context in which the term is used.

(b) Terms defined. —

(1) "Ad valorem property tax" means and is limited to the West Virginia ad valorem property tax.

(2) "Business" means any activity taxable under article §11-12-1 et seq. of this code, which is engaged in by any person in this State.

(3) "Disabled veteran taxpayer" means a person honorable discharged from any branch of the armed services of the United States and who is considered at least ninety percent totally and permanently disabled due solely to service-connected disabilities by the Department of Veterans Affairs.

(4) "Eligible motor vehicle" means a motor vehicle on which the *ad valorem* property tax has been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined in this article.

(5) "Flow-through entity," "conduit entity," or "pass through entity" means an S Corporation, partnership, limited partnership, limited liability partnership, or limited liability company. The term "flow-through entity," "conduit entity," or "pass through entity" includes a publicly traded partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity securities registered with the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange Act of 1934, 15 USC §781: *Provided*, That a publicly traded partnership as defined in section 7704 of the Internal Revenue Code having equity securities registered with the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange Act of 1934, 15 USC §781, and any other person or entity that is treated as a C corporation for federal income tax purposes, shall be treated as a corporation taxable under article §11-24-1 et seq. of this code for purposes of this article.

(6) "Motor Vehicle" means the following class of vehicles defined in §17A-10-1 of this code: Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and utility terrain vehicles as defined in §20-15-2 of this code.

(7) "Person" means and includes an individual, a trust, estate, partnership, pass through entity, association, company, or corporation.

(8) "Personal property" shall have the same meaning as in §11-5-1 et seq. of this code: *Provided*: That, for the purposes of this article, the term "personal property" shall not include a working interest in any oil, natural gas, or natural gas liquid producing property or any property of a public service company.

(9) "Personal property taxes paid" means the aggregate of regular levies, excess levies and bond levies extended against personal property that are paid during the calendar year and determined after any application of any discount for early payment of taxes. "Personal property taxes paid" does not include any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of "back tax" *ad valorem* property taxes, or any penalty or interest for late payment of property taxes.

(10) "Public service company" means a corporation or other business entity which delivers services considered essential to the public interest that are regulated by the applicable federal or state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas, telecommunications, and water, and those transporting personal property or passengers, including, but not limited to, airlines, railroads, trucking, and bus companies, and which are centrally assessed by the state for property tax purposes.

(11) "Real property taxes paid" means the aggregate of regular levies, excess levies and bond levies that are paid during the calendar year and determined after any application of any discount for early payment of taxes. "Real property taxes paid" does not include any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of "back tax" *ad valorem* property taxes, or any penalty or interest for late payment of property taxes.

**§11-13MM-3. Motor vehicle property tax adjustment credit.**

(a) *Credit allowed.* — There shall be allowed to every eligible taxpayer a credit, as determined under this section, against the tax imposed under §11-21-1 *et seq.* of this code, or against the tax imposed under §11-24-1 *et seq.* of this code, as applicable.

(b) "*Eligible taxpayer*" defined.—

(1) "Eligible taxpayer" – Owned motor vehicles — "Eligible taxpayer" means any person who owns a motor vehicle for which the *ad valorem* property tax has been paid during the corporation net income tax taxable year or the personal income tax taxable year, as applicable. For purposes of this definition, ownership of a motor vehicle includes ownership and possession of a motor vehicle for which a title has been issued by the Division of Motor Vehicles to the eligible taxpayer. For purposes of this definition, ownership of a motor vehicle also includes ownership and possession of a motor vehicle, subject to a purchase financing arrangement whereby a financial institution holds a lien on the motor vehicle, or for which ultimate issuance of title by the Division of Motor Vehicles to the taxpayer, as owner of the motor vehicle, is contingent upon payment in full of the purchase price of the motor vehicle pursuant to an installment payment financing arrangement.

(2) "Eligible taxpayer" – Leased motor vehicles — "Eligible taxpayer" also means and includes any lessor of a motor vehicle, as herein defined, who owns a motor vehicle for which the *ad valorem* property tax has been paid during the corporation net income tax taxable year or the personal income tax taxable year, as applicable: *Provided*, That, the lessor shall pass on to the lessee the value of the tax credit asserted by the lessor by causing a decreasing in the amount of rent or lease payment payable by the lessee on the leased motor vehicle.

(3) "Eligible taxpayer" – Pass through entities — "Eligible taxpayer" also means and includes any owner, interest holder, partner or S corporation shareholder that derives conduit income from a pass-through entity.

(4) "Eligible taxpayer" – Prohibition for motor vehicle dealers — "Eligible taxpayer" does not mean or include any motor vehicle dealer, motor vehicle dealership, retailer or any business that sells new or used motor vehicles at the retail level, other than a lessor of motor vehicles. In circumstances where any such motor vehicle dealer, motor vehicle dealership, retailer or business that sells new or used motor vehicles at the retail level is engaged in both retail sales of motor vehicles, and leasing of motor vehicles as lessor, the tax credit authorized by this article may only be asserted by such business based upon the *ad valorem* property tax paid on leased motor vehicles, and only to the extent that the lessor has passed on, to the lessee, the value of the tax credit asserted by the lessor by causing a decreasing in the amount of rent or lease payment payable by the lessee on the leased motor vehicle. No credit may be asserted or applied by the business based upon *ad valorem* property tax paid on motor vehicle retail inventories, not actively leased to lessees. To the extent that motor vehicle retail inventories may be held as both motor vehicle retail inventories, and as motor vehicles potentially subject to lease during the taxable

year, ad valorem property tax paid on such motor vehicles is excluded from eligibility for the tax credit authorized by this article.

(c) Amount of credit. – The amount of credit allowed under this article to the eligible taxpayer is the amount of West Virginia ad valorem property tax timely paid during the personal income taxable year or the corporation net income tax taxable year, as applicable, to a county sheriff on the value of a motor vehicle owned by the eligible taxpayer: Provided, That in no case shall any credit be allowed under this article for any untimely ad valorem property tax paid, or any payment of delinquent ad valorem property tax, or payment of "back tax" ad valorem property taxes.

(d) Application of credit against personal income tax and corporation net income tax. –

(1) Personal income tax – If the eligible taxpayer is subject to the personal income tax imposed by §11-21-1 et seq. of this code, the amount of credit allowed shall be taken against the personal income tax liability of the eligible taxpayer for the current personal income tax taxable year.

(2) Corporation net income tax — If the eligible taxpayer is subject to the corporation net income tax imposed by §11-24-1 et seq. of this code, the amount of credit allowed shall be taken against the corporation net income tax liability of the eligible taxpayer for the current corporation net income tax taxable year.

(e) Refundable portion of annual credit allowance. — If annual tax credit allowed under this article exceeds the amount of personal income tax or corporation net income tax, as applicable, subject to offset under this article in any taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a refundable tax credit.

(f) Transfer or sale of the motor vehicle. —

(1) Where there is a sale or transfer of the motor vehicle from an eligible taxpayer to any other person or entity, the transferor retains entitlement to the tax credit authorized under this article for the timely paid ad valorem property tax paid by the transferor in the transferor's personal income tax taxable year or corporation net income tax taxable year, as applicable, on the transferred motor vehicle.

(2) If the transferee meets all requirements for qualification as an eligible taxpayer under this article and meets all requirements for entitlement to the tax credit authorized under this article, then the transferee shall be entitled to the tax credit authorized under this article for the timely paid ad valorem property tax paid by the transferee in the transferee's personal income tax taxable year or corporation net income tax taxable year, as applicable on the eligible motor vehicle.

(3) In no case shall the transferor and the transferee take the tax credit authorized under this article for the same taxable year.

(g) Annual schedule. — The Tax Commissioner shall prescribe and supply all necessary instructions and forms for administration of this section. For purposes of asserting the credit against tax, the taxpayer shall prepare and file an annual schedule showing the amount of personal income tax paid for the taxable year, and the amount of property tax paid on the motor vehicle for the taxable year, and the amount of credit allowed under this article. The annual schedule shall set forth the information and be in the form prescribed by the Tax Commissioner.



**§11-13MM-4. Disabled veteran real property tax credit.**

(a) Credit allowed. — Disabled veterans may receive a tax credit against the tax imposed under §11-21-1 *et seq.* of this code in the amount of West Virginia *ad valorem* property tax timely paid on his or her homestead during the personal income taxable year.

(b) Amount of credit. — Any homeowner meeting the definition of a disabled veteran under this article, shall be allowed a refundable credit against the taxes imposed by §11-21-1 *et seq.* of this code equal to the amount of West Virginia *ad valorem* real property taxes timely paid a county sheriff on a homestead which is used or occupied exclusively for residential purposes, as those terms are defined in §11-6B-2, during the personal income taxable year: *Provided*, That in no case shall any credit be allowed under this article for any untimely real property tax paid, or any payment of delinquent real property tax, or payment of "back tax" real property taxes.

(c) Application of credit against personal income tax. — The amount of credit allowed under this section shall be taken against the personal income tax liability, imposed by article §11-21-1 *et seq.* of this code, of the eligible taxpayer.

(d) Refundable portion of annual credit allowance. — If annual tax credit allowed under this article exceeds the amount of personal income tax subject to offset under this article in any taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a refundable tax credit.

(e) Termination of tax credit. — Any tax credit approved in accordance with the provisions of this section shall terminate immediately when any of the following events occur:

- (1) The death of the owner of the property for which the tax credit was authorized;
- (2) The sale of the property for which the tax credit was approved; or
- (3) A determination by the assessor that the property for which the tax credit was approved no longer qualifies for the tax credit in accordance with the provisions of this section.

(f) Forms and instructions. — The Tax Commissioner shall prescribe and supply all necessary instructions and forms for administration of this section.

**§11-13MM-5. Small business property tax adjustment credit.**

(a) Credit allowed. — There shall be allowed to every eligible small business taxpayer a credit, as determined under this section, against the tax imposed under §11-21-1 *et seq.* of this code, or against the tax imposed under §11-24-1 *et seq.* of this code, as applicable.

(b) Definitions – The following definitions apply to this section:

(1) "Aggregate appraised value" means the true and actual value of all property in the state owned by the eligible taxpayer including the true and actual value of all property of any related entity;

(2) "Related entity" means:

(A) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof controlled by the taxpayer;

(B) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof that is in control of the taxpayer;

(C) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof controlled by an individual, corporation, partnership, affiliate, association or trust or any combination or group thereof that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

For purposes of this section, "control", with respect to a corporation, means ownership, directly or indirectly, of stock possessing fifty percent or more of the total combined voting power of all classes of the stock of the corporation which entitles its owner to vote. "Control", with respect to a trust, means ownership, directly or indirectly, of fifty percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) of the United States Internal Revenue Code, as amended: Provided, That paragraph (3) of section 267(c) of the United States Internal Revenue Code shall not apply.

(3) "Small business" means a business with personal property located in this state with an aggregate appraised value of \$1 million or less; Provided, That, for the purposes of this section, "small business" does not include any person holding a working interest in any oil, natural gas, or natural gas liquid producing property or any public service company that is centrally assessed by the state for property tax purposes.

(c) Amount of credit. — The amount of credit allowed pursuant to this article to the eligible small business taxpayer is 50% of the amount of West Virginia *ad valorem* property tax due and owing and timely paid to a county sheriff by the eligible taxpayer on personal property, as that term is defined in this article: Provided, That in no case shall any credit be allowed under this article for any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of "back tax" *ad valorem* property taxes.

(d) Application of credit against personal income tax and corporation net income tax. — The amount of credit determined under this section is allowed as a credit against 100 percent of that portion of the taxpayer's state income tax liability and applied as provided in subsections (1) and (2), and in that order.

(1) Corporation net income taxes. — If the eligible taxpayer is subject to the corporation net income tax imposed by §11-24-1 *et seq.* of this code, the amount of credit allowed shall be taken against the corporation net income tax liability of the eligible taxpayer for the current corporation net income tax taxable year.

(2) Personal income taxes. — If the small business taxpayer is an electing small business corporation, as defined in section 1361 of the United States Internal Revenue Code, a partnership, a limited liability company that is treated as a partnership for federal income tax purposes, or a sole proprietorship, then any unused credit is allowed as a credit against the taxes imposed by §11-21-1 *et seq.* of this code.

(3) Electing small business corporations, limited liability companies treated as partnerships for federal income tax purposes, partnerships, and other unincorporated organizations shall allocate the credit allowed by this article among its members in the same manner as profits and losses are allocated for the taxable year.

(4) No credit is allowed under this section against any employer withholding taxes imposed by §11-21-1 et seq. of this code.

(e) Refundable portion of annual credit allowance. – If the annual tax credit allowed under this article exceeds the amount of personal income tax or corporation net income tax, as applicable, subject to offset under this article in any taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a refundable tax credit.

(f) Annual schedule. — The Tax Commissioner shall prescribe and supply all necessary instructions and forms for administration of this section. For purposes of asserting the credit against tax, the taxpayer shall prepare and file an annual schedule showing the amount of personal income tax paid for the taxable year, and the amount of property tax paid on the personal property subject to *ad valorem* property taxation pursuant to this chapter and pursuant to Article X of the Constitution of this State, as applicable for the taxable year, and the amount of credit allowed pursuant to this article. The annual schedule shall set forth the information and be in the form prescribed by the Tax Commissioner.

#### **§11-13MM-6. Rulemaking.**

The Tax Commissioner may promulgate such interpretive, legislative, and procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of §11-13MM-1 et seq. of this code and to implement the intent of the Legislature. All rules shall be promulgated in accordance with the provisions of §29A-3-1 et seq. of this code.

#### **§11-13MM-7. Annual Reports.**

The Tax Commissioner shall make an annual report, as soon as possible after the close of each tax year, of the actions taken by the West Virginia Tax Division with respect to the tax credits authorized pursuant to this article. This report shall be filed with the Joint Committee on Government and Finance. The report shall include at a minimum the amount of the credit claimed in the preceding tax year in each of the categories set forth in this article. Information set forth in the report shall be subject to the confidentiality restrictions of §11-10-1 et seq. of this code, and shall be redated and otherwise formatted and presented so as to preserve the confidentiality of taxpayers and tax information.

#### **11-13MM-8. Tax administration and procedures.**

(a) Each and every provision of the "West Virginia Tax Procedure and Administration Act" set forth in §11-10-1 et seq. of this code applies to the tax credits allowed under §11-13MM-1 et seq. of this code, except as otherwise expressly provided in this article, with like effect as if that act were applicable only to the tax credit allowed by §11-13MM-1 et seq. of this code and were set forth *in extenso* in this article.

(b) Each and every provision of the "West Virginia Tax Crimes and Penalties Act" set forth in §11-9-1 et seq. of this code applies to the tax credit allowed by §11-13MM-1 et seq. of this code

with like effect as if that act were applicable only to the tax credit §11-13MM-1 *et seq.* of this code and were set forth *in extenso* in this article.

**§ 11-13MM-9. Severability.**

(a) If any provision of §11-13MM-1 *et seq.* of this code, or the application thereof, is for any reason adjudged by any court of competent jurisdiction to be invalid, the judgment may not affect, impair, or invalidate the remainder of §11-13MM-1 *et seq.* of this code, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered, and the applicability of the provision to other persons or circumstances may not be affected thereby.

(b) If any provision of §11-13MM-1 *et seq.* of this code, or the application thereof, is made invalid or inapplicable by reason of the repeal or any other invalidation of any statute therein addressed or referred to, such invalidation or inapplicability may not affect, impair, or invalidate the remainder of §11-13MM-1 *et seq.* of this code, but shall be confined in its operation to the provision thereof directly involved with, pertaining to, addressing, or referring to the statute, and the application of the provision with regard to other statutes or in other instances not affected by any such repealed or invalid statute may not be abrogated or diminished in any way.

**§11-13MM-10. Effective Date.**

This article shall be effective for personal income taxable years beginning on or after January 1, 2024, and for corporation net income tax taxable years beginning on or after January 1, 2024. Subject to the restrictions, limitations and requirements set forth in this article, *ad valorem* property tax timely paid in the personal income tax taxable year, or the corporation net income tax taxable year, as applicable, beginning on or after January 1, 2024, may qualify for the tax credits specified in this article.

**ARTICLE 21. PERSONAL INCOME TAX**

**§11-21-4g Rate of tax — Taxable years beginning on and after January 1, 2023.**

(a) *Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, and estates and trusts.* — The tax imposed by §11-21-3 of this code on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust shall be determined in accordance with the following table:

**If the West Virginia taxable**

**income is:**

**The tax is:**

Not over \$10,000

2.36% of the taxable income

Over \$10,000 but not over \$25,000

\$236 plus 3.15% of excess over \$10,000

Over \$25,000 but not over \$40,000

\$708.50 plus 3.54% of excess over \$25,000

<u>Over \$40,000 but not over \$60,000</u>	<u>\$1,239.50 plus 4.72% of excess over \$40,000</u>
<u>Over \$60,000</u>	<u>\$2,183.50 plus 5.12% of excess over \$60,000</u>

(b) Rate of tax on married individuals filing separate returns. — In the case of husband and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-3 of this code on the West Virginia taxable income of each spouse shall be determined in accordance with the following table:

**If the West Virginia taxable**

**income is:**

**The tax is:**

<u>Not over \$5,000</u>	<u>2.36% of the taxable income</u>
<u>Over \$5,000 but not over \$12,500</u>	<u>\$118 plus 3.15% of excess over \$5,000</u>
<u>Over \$12,500 but not over \$20,000</u>	<u>\$354.25 plus 3.54% of excess over \$12,500</u>
<u>Over \$20,000 but not over \$30,000</u>	<u>\$619.75 plus 4.72% of excess over \$20,000</u>
<u>Over \$30,000</u>	<u>\$1,091.75 plus 5.12% of excess over \$30,000</u>

(c) Effect of rates on Nonresident Composite and Withholding Obligations — Notwithstanding any provision of this article to the contrary, for taxable years beginning on and after the retroactive date specific in §11-21-4g(d) of this code, whenever the words "six and one-half percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77, of this article, with relation to a tax return of, or the tax rate imposed on income of individuals, individuals filing joint returns, heads of households, and estates and trusts, the stated percentage shall be changed to 5.12%.

(d) Applicability of this section. — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply retroactively for all taxable years beginning on and after January 1, 2023, and shall be in lieu of the rates of tax specified in §11-21-4e of this code.

**§11-21-4h Future personal income tax reductions.**

(a) For the purposes of this section, the terms defined in this section have the meanings ascribed to them unless a different meaning is clearly required by the context in which the term is used:

(1) "Adjusted consumer price ratio" means the fiscal year consumer price index divided by the base year consumer price index.

(2) "Adjusted general revenue fund collections" means all net general revenue fund collections minus the net general revenue fund collections related to the imposition of the taxes imposed under the provisions of §11-13A-1, et seq. of this code.

(3) "Base year revenues" means actual general revenue fund collections for 2019 fiscal year, which is \$4,293,884,754

(4) "Base year consumer price index" means a 12-month average of the not seasonally adjusted Consumer Price Index for all urban consumers for the months between July 2018 and June 2019.

(5) "Excess fiscal year general revenue fund collections" means the positive difference from subtracting the inflation adjusted base year revenues from the adjusted general revenue fund collections from the immediately preceding fiscal year.

(6) "Fiscal year consumer price index" means a 12-month average of the not seasonally adjusted Consumer Price Index for all urban consumers for the months between July and June of the immediately preceding fiscal year.

(7) "Inflation adjusted base year revenues" means the base year general revenue fund collections multiplied by the adjusted consumer price ratio.

(b) *Future personal income tax rate reductions.* — Beginning on August 15, 2024, and every August 15 thereafter, the Secretary of Revenue will determine whether the total fiscal year adjusted general revenue fund collections from the immediately preceding fiscal year are in excess of the inflation adjusted base year revenues. If the total fiscal year adjusted general revenue fund collections from the immediately preceding fiscal year are in excess of the inflation adjusted base year revenues, then there will be a reduction in the personal income tax rates as determined under this section beginning in the next taxable year.

(c) *Determination of rate.* — In order to determine the amount of a personal income tax reduction, the excess fiscal year general revenue fund collections will be divided by the amount of the immediately preceding fiscal year's total personal income tax collections for all funds and will be rounded down to the nearest whole percentage. The amount of the percentage of reduction will be applied equally across the tax rates applicable in the tax year immediately preceding the rate reduction: *Provided*, That reduction in personal income tax rates may not result in an amount larger than a 10% reduction in the rates set forth in §11-21-4e of this code.

(d) *Certification of reduction.* — The Secretary of Revenue and the State Auditor will certify to the Tax Commissioner that a rate change is required under this section as soon as possible after August 15 so that the Tax Commissioner may notify taxpayers of any change in personal income tax rates. The certification will provide base year revenues, the total fiscal year general revenue fund collections from the immediately preceding fiscal year, the base year consumer price index, the fiscal year consumer price index, the adjusted consumer price ratio, the amount of inflation adjusted base year revenues, the amount of excess fiscal year general revenue fund collections and the amount of the immediately preceding fiscal year's total personal income tax collections for all funds.

(e) *Applicability of this section.* — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply for all taxable years beginning on and after January 1, 2025, and shall be in lieu of the rates of tax specified in §11-21-4g of this code.

(f) Annual Reports. — The Tax Commissioner shall prepare an annual report to the Joint Committee on Government and Finance detailing any relevant modifications to the personal income tax.

(g) Rulemaking. — Notwithstanding any provision of this code to the contrary, the Tax Commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code explaining and implementing this section.

Following discussion,

The question being on the adoption of the Finance committee amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2526), as amended, was then ordered to third reading.

On motion of Senator Takubo, 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, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Smith—1.

Engrossed Committee Substitute for House Bill 2526 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, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2526) passed.

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

**Eng. Com. Sub. for House Bill 2526**—A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, and §11-13MM-10; and to amend said code by adding thereto two new sections, designated §11-21-4g and §11-21-4h, all relating to reducing the personal income tax; providing for reduced graduated

income tax rates; reducing the rate of tax on composite returns; reducing the rate of withholding tax on nonresident income; reducing the rate of withholding tax on the nonresident sale of real estate; reducing the rate of withholding on gambling winnings; applying the rates retroactively to January 1, 2023; providing for additional reductions in the personal income tax rates when certain criteria have been met; providing for a method for calculating the rate reduction and cap on the reduction; providing for certification to the Tax Commissioner; authorizing a refundable tax credit applied against personal income tax or corporation net income tax based upon amount of property tax timely paid on motor vehicles; providing for the treatment of credit upon transfer of eligible motor vehicle; authorizing a refundable tax credit applied against personal income tax based upon the amount of real property tax timely paid on a homestead owned by eligible disabled veterans; authorizing a refundable tax credit against corporation net income tax or personal income tax based upon 50% of property tax timely paid on personal property owned by a small business; designating a short title; providing findings and purpose; defining terms; providing for the application of tax credits; allowing rulemaking; providing for annual reports to the legislature; and providing effective dates.

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2526) takes effect from passage.

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

The Senate again proceeded to the tenth order of business.

The end of today's first reading calendar having been reached, the Senate returned to the consideration of

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

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

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

Thereupon, on motion of Senator Takubo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page 18, section 5, after line 130, by adding thereto a new subsection, designated subsection (j), to read as follows:



(j) In the event the revenues in a given year exceed the expenses, the amount of revenues in excess of the expenses shall be retained by the Public Employees Insurance Agency to offset future premium increases.;

On page 44, section 9, line 157, by striking out the words "a nationally accredited network" and inserting in lieu thereof the word "networks";

And,

On page 46, lines 9-16, section 13, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision (2), to read as follows:

(2) The spouse and dependent coverage is limited to excess or secondary coverage for each spouse and dependent who has primary coverage from any other source. If an employee's spouse has health insurance available through an employer not defined in §5-16-2 of this code, then the employer may not cover any portion of premiums for the employee's spouse coverage, unless the employee adds his or her spouse to his or her coverage by paying the cost of the actuarial value of the plan: *Provided*, That this does not apply to spouses of retired employees or voluntary employers as defined in §5-16-22 of this code.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 268 was then put upon its passage.

Pending discussion,

Senator Weld arose to a point of order stating that debate had digressed to the discussion of a different bill rather than the bill in question.

Which point of order, the President ruled well taken.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 268 pass?"

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—29.

The nays were: Caputo, Chapman, Stuart, and Woelfel—4.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 268) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woodrum, and Blair (Mr. President)—29.

The nays were: Caputo, Chapman, Stuart, and Woelfel—4.

Absent: Smith—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 268) takes effect from passage.

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

Action as to Engrossed Committee Substitute for Committee Substitute for Senate Bill 268 having been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for Senate Bill 423**, Increasing salary for certain state employees.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 423 pass?"

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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 423) passed with its title.

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

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 423) takes effect July 1, 2023.

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

Consideration of Engrossed Committee Substitute for Senate Bill 423 having been concluded, the Senate proceeded to the consideration of

**Com. Sub. for Senate Bill 150**, Budget Bill.

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

On motion of Senator Takubo, 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, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Caputo—1.

Absent: Smith—1.

Engrossed Committee Substitute for Senate Bill 150 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, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 150) 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, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Smith—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 150) takes effect from passage.

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

Consideration of Engrossed Committee Substitute for Senate Bill 150 having been concluded,

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

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

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

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 2252**—A Bill to amend and reenact §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, and §61-14-8 of the Code of West Virginia, all relating to increasing criminal penalties and mandatory fines for human trafficking; establishing limitations on parole; and providing immunity from criminal liability for juvenile victims.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2761**—A Bill to amend and reenact §18A-2-2 of the Code of West Virginia, 1931, as amended, relating to authorizing county boards to employ eligible classroom aides as classroom teachers when certain conditions are met.

Referred to the Committee on Education.

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 2865**—A Bill to amend and reenact §24-2H-4, §24-2H-5, §24-2H-6, and §24-2H-8 of the Code of West Virginia, 1931, as amended, all relating to clarifying that the Public Service Commission may enter an order in a distressed or failing utility case requiring corrective measures up to and including an acquisition by an acquiring utility; providing the Commission shall provide the list of potentially unstable water and wastewater utilities to statewide water or wastewater technical assistance non-profits; providing the Commission staff shall publish annually, by hyperlink, the list of potentially unstable water and wastewater utilities on the commission's homepage; providing that eligibility of a utility to receive state grant funding and federal grant funding in a similar manner as the distressed utility is a factor in determining whether a utility is a capable proximate utility; providing that petitions filed with the commission include factual data supporting the justification for the utility to be considered as a distressed or failing utility; providing that high loss and unaccounted for water is not evidence of a distressed or failing utility; and clarifying that an acquiring utility becomes such only after approval of the necessary operating agreement.

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. House Bill 3166**—A Bill to amend and reenact §27-5-2a of the Code of West Virginia, 1931, as amended, relating to a hospital holding a patient for a certain period of time.

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

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

**Eng. House Bill 3188**—A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new article, designated §15-3F-1, §15-3F-2, §15-3F-3, §15-3F-4, §15-3F-5 and §15-3F-6 of said code, all relating to the establishment of an alert system for missing cognitively impaired persons; providing for the use of video image recording devices for search purposes during a Purple Alert; providing legislative findings; providing criteria for the activation of a Purple Alert; providing for notice and broadcasting of a Purple Alert; and providing immunity for individuals providing information pursuant to a Purple Alert in good faith.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 3189**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-11C-1, §22-11C-2, §22-11C-3, and §22-11C-4, all relating to identifying the sources of perfluoroalkyl and polyfluoroalkyl substances discharged into source waters used for public drinking water; providing legislative findings; providing state and federal regulation history, status, and future expectations; providing definitions; requiring the Department of Environmental Protection to begin identifying sources of PFAS in water sources and address sources of PFAS for certain public water systems with action plans; requiring facilities using PFAS chemicals to monitor and report their use; setting forth other duties of those facilities; providing information disclosure provisions; requiring the Secretary of the Department of Environmental Protection to propose changes to statutes and rules and to update numeric public water supply human health criteria; requiring the Department of Environmental Protection to implement permit modifications to require monitoring; and requiring legislative rule-making.

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 3198**—A Bill to amend and reenact §17-24A-4 of the Code of West Virginia, 1931, as amended, relating to obtaining title to abandoned or junked motor vehicles abandoned on the property or place of business of an automobile dealer, licensed automobile auction, motor vehicle repair facility or towing company; and removing the requirement that the loan value of the motor vehicle be less than \$9500 to allow the automobile dealer, licensed

automobile auction, motor vehicle repair facility or towing company to obtain a certificate of title and registration for the abandoned motor vehicle or junked vehicle.

Referred to the Committee on Transportation and Infrastructure.

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 3247**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-31; to amend and reenact §16,2D-2, §16-2D-8, §16-2D-9, and §16-2D-11; to amend said code by adding thereto a new article designated, §16-5W-1, §16-5W-2, §16-5W-3, §16-5W-4, §16-5W-5, §16-5W-6 and §16-5W-7; to repeal §27-8-2b and §27-8-3 of said code; to repeal §27-9-1 of said code; to repeal §27-13-1 and §27-13-2 of said code; and to repeal §27-17-1, §27-17-2, §27-17-3, and §27-17-4 of said code; all relating to regulation of behavioral health services; requiring the Bureau of Medical Services to development a reimbursement model relating to in home services of Intellectually and Developmentally Disabled Intermediate Care waivers; requiring the bureau to use a performance based contract; defining terms; removing services from the moratorium; removing services from certificate of need; adding services to certificate of need; providing exceptions from certificate of need; permitting the Health Care Authority to redistribute bed capacity; requiring access to consumers; requiring access to records; regulating behavioral health centers; providing rulemaking authority; establishing a mental health ombudsman; providing authority to the ombudsman; providing an exemption of consumer information from the Freedom of Information Act; requiring reporting; and permitting a civil penalty.

Referred to the Committee on Health and Human Resources.

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

**Eng. Com. Sub. for House Bill 3265**—A Bill to amend and reenact §59-1-14 of the Code of West Virginia, 1931, as amended, relating to service of process by sheriff; and requiring a county sheriff to owe fees to another sheriff's department or law enforcement agency for service.

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 3278**—A Bill to amend and reenact §30-8-3, §30-8-6 and §30-8-9 of the Code of West Virginia, 1931, as amended, all relating to the practice of optometry; defining terms; removing obsolete areas of the code; and permitting a licensee to perform certain procedures trained by an approved accredited body.

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

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

**Eng. House Bill 3417**—A Bill to amend and reenact §18B-3D-6 of the Code of West Virginia, 1931, as amended, relating to creating a three-year pilot program to include Potomac State College of West Virginia University as an eligible institution for participation in the "Learn and Earn Program".

Referred to the Committee on Education.

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

**Eng. House Bill 3448**—A Bill to amend and reenact §62-12-5 of the Code of West Virginia, 1931, as amended, relating to probation officer field training.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 3499**—A Bill to amend and reenact §36-12-13 of the Code of West Virginia, 1931, as amended, relating to allowing death deeds to specify joint tenancy with right of survivorship.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 3555**—A Bill to amend and reenact §18B-10-14 of the Code of West Virginia, 1931, as amended, relating to clarifying the requirements imposed on institutions in instances where the required course materials or digital courseware has not been selected prior to a student's enrollment or if a change to the course materials or digital courseware required would cause an increased charge to the student.

Referred to the Committee on Education.

### **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 24, 2023

The Honorable Lee Cassis, Clerk  
West Virginia Senate  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

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

Committee Substitute for Senate Bill No. Two Hundred Thirty-Nine (239), which was presented to me on February 20, 2023.

Senate Bill No. Two Hundred Seventy-Five (275), which was presented to me on February 20, 2023.

You will note that I have approved these bills on February 24, 2023.

Sincerely,

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

Jim Justice  
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk





*Jim Justice*  
*Governor of West Virginia*

February 24, 2023

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

Dear Mr. Clerk:

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

House Bill No. Two Thousand Eight Hundred (2800), which was presented to me on February 20, 2023.

House Bill No. Two Thousand Eight Hundred Eighty-Two (2882), which was presented to me on February 20, 2023.

Committee Substitute for House Bill No. Three Thousand Sixty-One (3061), which was presented to me on February 20, 2023.

You will note that I have approved these bills on February 24, 2023.

Sincerely,

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

Jim Justice  
Governor

JJ/mh

cc: The Honorable Lee Cassis

The Senate proceeded to the fourth order of business.

Senator 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 123**, Creating enhanced penalties for fleeing officer.

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

**Com. Sub. for Senate Bill 123** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to creating enhanced second and third offenses for fleeing from an officer on foot or in a vehicle; establishing criminal penalties for the new offenses; and declaring that a conviction for fleeing while under the influence of alcohol or drugs is treated as a driving under the influence for licensure purposes.

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.*

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 the Judiciary.

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 470**, Making adoption records accessible for medical purposes.

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

**Com. Sub. for Senate Bill 470** (originating in the Committee on the Judiciary)—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-22-803; and to amend and reenact §49-4-604 and §49-4-607 of said code, all relating to adoption; and specifically making the medical records of an adopted child's biological parents available to the child, the child's guardian, or the child's lineal descendants for medical purposes; authorizing adult adoptees to access to certain records, including adoption records and medical history; requiring biological parents to provide certain health information; allowing biological parents to designate a contact preference and allowing them to provide certain information; allowing biological parents to request name redaction; providing for a name redacting process; directing the Department of Health and Human Resources to administer records, require additional information, and charge a reasonable fee; providing a procedure for the collection and dissemination of information; providing for the tracking of information and reporting to the Legislative Oversight Commission on Health and Human Resources Accountability; requiring

biological parents whose parental rights are terminated to provide identifying information to the Department of Health and Human Services; requiring biological parents whose parental rights are terminated to provide authorization to the Department of Health and Human Services to access their medical records upon a showing of legitimate medical need and provide those records to an adopted child, their lineal descendants, or legal guardian; requiring biological parents whose parental rights are terminated to provide authorization to the Department of Health and Human Services to provide to the Department of Health and Human Services a DNA or other biological sample upon a showing of legitimate medical need and authorizing the department to transfer that sample to an adopted child, their lineal descendants, legal guardian, or medical professional providing treatment; requiring the department to obtain agreement regarding medical records and the collection of biological samples as a condition of voluntary relinquishment of parental rights; and authorizing the Department of Health and Human Resources to promulgate legislative rules related to these provisions.

Without recommendation as to passage; but with the recommendation that it be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 470) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and then rereferred to the Committee on the Judiciary.

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 540**, Creating misdemeanor offense of willfully urinating or defecating in public.

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

**Com. Sub. for Senate Bill 540** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-32, relating to the creation of the misdemeanor offense of willfully urinating or defecating in public; creating an exception for public restrooms; establishing criminal penalties; and clarifying that a person may be charged for the offense by citation.

And,

**Senate Bill 647**, Changing time on child abuse registry for certain persons.

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

**Com. Sub. for Senate Bill 647** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §49-4-601b of the Code of West Virginia, 1931, as amended, relating to substantiation of abuse and neglect allegations; requiring that when an abuse and neglect

allegation is substantiated and a child abuse petition could be filed and the department does not do so, records related to the allegation are sealed after one year, absent a new allegation within that year; excluding persons from having records sealed who have a substantiated case but no court case can be filed; requiring that substantiated cases where the court does not adjudicate abuse and neglect be deemed unsubstantiated; allowing a petition to seal a file after five years for persons found only to be neglectful; exceptions; criteria; directing the department to propose legislative rules to effectuate the statutory directive; and defining terms.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 552**, Relating to abortion.

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

**Com. Sub. for Senate Bill 552** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-2I-1, §16-2I-2, §16-2I-3, and §16-2I-4 of the Code of West Virginia, 1931, as amended; to repeal §16-2I-5 of said code; to amend and reenact §16-2I-6, §16-2I-7, §16-2I-8, and §16-2I-9 of said code; and to amend and reenact §16-2R-9 of said code, all relating to abortion; defining terms; making article applicable to physicians that meet qualifications and are certified under Mifepristone risk evaluation and mitigation strategy; amending information provided during informed consent; removing liability protection for a physician when prescribing a non-Food and Drug Administration approved drug therapy; providing resource to contact if questions rise regarding chemical abortion; requiring the Secretary of the Department of Health and Human Resources to have a 24-hour telephone number to maximize awareness; revising information to be made available; requiring the Bureau of Public Health to publish information on its website; setting forth the required information; providing for administrative discipline against a licensed medical professional for violation of article; and revising severability clauses.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Health and Human Resources.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 581**, Amending provisions of 2023 Farm Bill.

And reports the same back with the recommendation that it 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 633**, Requiring prompt appearances for persons detained on capiases.

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

**Com. Sub. for Senate Bill 633** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-1-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §62-1C-17b of said code; and to amend and reenact §62-2-17 of said code, all relating to failure to appear; requiring compliance with the magistrate court criminal rules; requiring prompt court appearances for persons detained on capiases or warrants for failure to appear; providing procedures for issuing bench warrants and capiases for nonappearance at scheduled court hearings or other proceeding; allowing a grace period after a failure to appear to allow certain defendants to appear except in defined circumstances; providing procedures following execution of bench warrants for nonappearance; and requiring courts to ensure that all inactive warrants and capiases for failure to appear are removed from law-enforcement databases.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Agriculture and Natural Resources has had under consideration

**Senate Bill 738** (originating in the Committee on Agriculture and Natural Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-39-1, §19-39-2, §19-39-3, §19-39-4, §19-39-5, §19-39-6, §19-39-7, §19-39-8, §19-39-9, and §19-39-10, all relating to creation of the Right to Repair Act; creating a short title; defining terms; establishing jurisdiction of the Commissioner of Agriculture; establishing requirements; establishing limitations; establishing prohibitions; providing for rulemaking;

establishing violations; imposing civil penalties; authorizing civil actions, penalties, and injunctive relief; and providing for applicability and effective date of article.

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

Respectfully submitted,

Bill Hamilton,  
*Chair.*

Senator Blair (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Senate Bill 739** (originating in the Committee on Rules)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated 22-11C-1 and §22-11C-2, all relating to the declaration of a moratorium for 60 days on entering into contracts or agreements selling, leasing, letting, or otherwise transferring property rights relating to any carbon storage, carbon capture, carbon sequestration, or similar agreements, in order to give the Legislature time to deliberate and pass laws as may be determined to be necessary to prevent or mitigate substantial economic harm to West Virginia citizens.

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

Respectfully submitted,

Craig Blair,  
*Chair ex officio.*

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 739) contained in the preceding report from the Committee on Rules 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

**Eng. House Bill 3340**, To revise the West Virginia Tax Increment Financing Act .

Now on second reading, having been read a first time and referred to the Committee on Finance on February 24, 2023;

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

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3340) contained in the preceding report from the Committee on Finance was taken up for immediate consideration and read a second time.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Tarr.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Tarr 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 senator was removed as a co-sponsor of the following bill on February 24, 2023:

**Senate Bill 547:** Senator Chapman.

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 24, 2023:

**Senate Bill 52:** Senator Queen;

**Senate Bill 92:** Senator Stuart;

**Senate Bill 123:** Senator Hunt;

**Senate Bill 220:** Senator Trump;

**Senator Bill 547:** Senators Weld and Trump;

**Senate Bill 550:** Senators Chapman, Hunt, and Grady;

**Senate Bill 555:** Senator Stuart;

**Senate Bill 572:** Senator Stuart;

**Senate Bill 624:** Senator Stuart;

**Senate Bill 633:** Senator Rucker;

**Senate Bill 660:** Senators Rucker and Trump;

**Senate Bill 693:** Senator Stuart;

**Senate Bill 697:** Senator Stuart;

**Senate Joint Resolution 3:** Senator Stuart;

**Senate Joint Resolution 9:** Senator Stuart;

And,

**Senate Resolution 37:** Senator Stuart.

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

On motion of Senator Takubo, at 3:05 p.m., the Senate adjourned until Monday, February 27, 2023, at 11 a.m.

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## SENATE CALENDAR

Monday, February 27, 2023  
11:00 AM

### UNFINISHED BUSINESS

- S. R. 40 - Designating February 27, 2023, as Human Resources Day at Legislature
- S. R. 41 - Recognizing Leadership Berkeley for its services, dedication, and commitment to Berkeley County, WV
- S. R. 42 - Recognizing contributions of AARP WV and its Capitol Advocacy Team of volunteers to betterment of our state and its people

### THIRD READING

- Eng. Com. Sub. for S. B. 267 - Updating law regarding prior authorizations
- Eng. S. B. 438 - Return to WV Tax Credit Act
- Eng. Com. Sub. for Com. Sub. for S. B. 522 - Allocating percentage of county excise taxes for funding improvements to election administration
- Eng. Com. Sub. for S. B. 534 - Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements - (With right to amend)
- Eng. Com. Sub. for Com. Sub. for S. B. 561 - Relating to administration of WV Drinking Water Treatment Revolving Fund Act - (With right to amend)
- Eng. Com. Sub. for Com. Sub. for S. B. 576 - Creating Securities Restitution Assistance Fund for victims of securities violations (original similar to HB3250, SB639)
- Eng. Com. Sub. for Com. Sub. for S. B. 590 - Emergency Medical Services Retirement System Act
- Eng. Com. Sub. for S. B. 613 - Relating generally to certificates of need - (With right to amend)
- Eng. Com. Sub. for S. B. 628 - Revising provisions related to public charter schools - (With right to amend)
- Eng. Com. Sub. for S. B. 667 - Requiring periodic performance audits of WV Secondary Schools Athletic Commission
- Eng. Com. Sub. for S. B. 677 - Clarifying role and responsibilities of State Resiliency Officer - (With right to amend)
- Eng. S. B. 679 - Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes
- Eng. Com. Sub. for S. B. 688 - Allowing BOE to hire retired teachers to assist with tutoring
- Eng. S. B. 733 - Relating to wildlife licenses and stamps
- Eng. S. B. 735 - Clarifying department responsible for administration of certain programs

- Eng. S. B. 737 - Emergency Medical Services Act - (With right to amend)
- 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. H. B. 3307 - Establishing the West Virginia-Ireland Trade Commission - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. H. B. 3340 - To revise the West Virginia Tax Increment Financing Act - (With right to amend)
- Eng. H. B. 3428 - Relating to the West Virginia Business Ready Sites Program - (Com. amend. and title amend. pending) - (With right to amend)

## **SECOND READING**

- Com. Sub. for S. B. 62 - Establishing secondary location for racetrack video lottery terminals
- Com. Sub. for S. B. 220 - Industrial Hemp Development Act
- Com. Sub. for S. B. 422 - Requiring public schools to publish curriculum online at beginning of each new school year
- Com. Sub. for Com. Sub. for S. B. 440 - Authorizing DOH pay current obligations from State Road Fund
- Com. Sub. for S. B. 476 - Exempting managed care contracts from purchasing requirements
- Com. Sub. for S. B. 541 - Providing for election reforms
- Com. Sub. for S. B. 546 - Adding and removing certain compounds from controlled substance list
- Com. Sub. for S. B. 547 - Increasing penalties for drug possession and updating list of offenses
- Com. Sub. for S. B. 572 - Reforming cause of action for public nuisance
- Com. Sub. for S. B. 573 - Relating to child support guidelines and Support Enforcement Commission
- Com. Sub. for S. B. 634 - Increasing value at which municipal property must be sold through public auction
- Com. Sub. for S. B. 650 - Allowing physician assistants to own practice
- Com. Sub. for S. B. 660 - Establishing aggravated felony offense of reckless driving resulting in death
- Com. Sub. for S. B. 666 - Placing cap on maximum penalty that may be imposed for first-degree robbery
- Com. Sub. for S. B. 681 - Clarifying that juvenile competency determination process extends to status offenders
- S. B. 732 - Prohibiting insurer from imposing copayment for certain services
- S. B. 734 - Requiring adoption of cloud computing services by state agencies

S. B. 736 - Establishing three-year nontraditional school week pilot project

S. B. 739 - Relating to moratorium on carbon capture agreements

Eng. H. B. 3218 - Relating to requiring suicide prevention resources be printed on student identification cards

Eng. Com. Sub. for H. B. 3308 - Authorizing PSC consider and issue financing orders to certain utilities to permit the recovery of certain costs through securitization via consumer rate relief bonds

### **FIRST READING**

Com. Sub. for S. B. 123 - Creating enhanced penalties for fleeing officer

Com. Sub. for S. B. 540 - Creating misdemeanor offense of willfully urinating or defecating in public

Com. Sub. for S. B. 552 - Relating to abortion

Com. Sub. for S. B. 581 - Amending provisions of 2023 Farm Bill

Com. Sub. for S. B. 633 - Requiring prompt appearances for persons detained on capiases

Com. Sub. for S. B. 647 - Relating to substantiation of abuse and neglect allegations

S. B. 738 - Equipment Right to Repair Act

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2023**

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**Monday, February 27, 2023**

9 a.m.	Outdoor Recreation	(Room 208W)
10 a.m.	Health & Human Resources	(Room 451M)
10:50 a.m.	Rules	(Room 219M)