

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Tuesday, March 7, 2023

The Senate met at 11:11 a.m.

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

Prayer was offered by the Reverend Nathan Epling, Madison United Methodist Church, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Tom Takubo, a senator from the seventeenth district.

Pending the reading of the Journal of Monday, March 6, 2023,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Senate Bill 142, Modifying procedures to settle estates of decedents.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page 4, section 4a, line 26, by inserting "distributee and" after the word 'each'; and, on page 4, section 4a, line 28 by inserting "distributee and" after the word 'any';

On page 9, section 9, line 9 by striking "II" and inserting "I" in lieu thereof;

on page 9, section 9, line 11, by striking the word "first";

And,

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

Eng. Senate Bill 142—A Bill to amend and reenact §44-2-1 and §44-2-29 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-3A-4a and §44-3A-19 of said code; and to amend and reenact §44-4-9 of said code, all relating to the procedure to settle estates of decedents; abolishing the requirement to publish a short form settlement of estates of decedents; providing for short form filing procedure; changing the requirement of a Class II legal advertisement to a Class I legal advertisement for the fiduciary commissioners list of long form settlements; and updating language and style.

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

Engrossed Senate Bill 142, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 142) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2023, of

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

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

Eng. Com. Sub. for Senate Bill 335, Authorizing Department of Homeland Security to promulgate legislative rules.

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

Eng. Com. Sub. for Senate Bill 439, Establishing design-build program for DEP.

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

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

On page 2, section 2, line 20, immediately following the word "article" by inserting the following

" : *Provided*, That only contracts awarded directly by the Department of Environmental Protection may utilize the design-build delivery method authorized pursuant to the provisions of this article: *Provided, however*, design-build delivery projects awarded pursuant to the provisions of this article may not exceed a total aggregate value of \$50 million."

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

Engrossed Committee Substitute for Senate Bill 439, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 439) 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, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 439) takes effect from passage.

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

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

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

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

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

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

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

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

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

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 2024—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Eng. Com. Sub. for House Bill 2605, Relating to Good Samaritan law.

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

Eng. Com. Sub. for House Bill 2640, Authorizing certain agencies of the Department of Environmental Protection to promulgate legislative rules.

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

Eng. Com. Sub. for House Bill 2648, Authorizing certain agencies and boards of the DHHR to promulgate a legislative rule.

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 2911—A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Homeland Security, Division of Administrative Services, fund 0546, fiscal year 2023, organization 0623, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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. House Bill 3509—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2023, to Miscellaneous Boards and Commissions, Public Service Commission – Consumer Advocate Fund, fund 8627, fiscal year 2023, organization 0926, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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. House Bill 3513—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2023, to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority, fund 6675, fiscal year 2023, organization 0608, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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. House Bill 3515—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2023, to the Department of Veterans' Assistance, Veterans' Facilities Support Fund, fund 6703, fiscal year 2023, organization 0613, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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. House Bill 3518—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2023, to the Department of Agriculture, fund 8736, fiscal year 2023, organization 1400, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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. House Bill 3524—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2023, to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund, fund 1481, fiscal year 2023, organization 1400, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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. House Bill 3526—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2023, to Miscellaneous Boards and Commissions, Public Service Commission, fund 8623, fiscal year 2023, organization 0926, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the changed effective date, to take effect July 1, 2023, of

Eng. House Bill 3547, Increasing the number of personal leave days that county board of education employees may use.

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

House Concurrent Resolution 15—Requesting That the Joint Committee on Government and Finance send official correspondence to West Virginia's federal delegations stating West Virginia veterans' concerns and objections to the two TRICARE for Life ("TFL") proposals found in the Congressional Budget Office (CBO) biennial report that would significantly increase costs for seniors using the TFL benefit.

Referred to the Committee on Military.

The Senate proceeded to the sixth order of business.

Senator Takubo offered the following resolution:

Senate Resolution 47—Recognizing March as American Red Cross month.

Which, under the rules, lies over one day.

Senator Takubo announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with Rule 17 of the Rules of the Senate, had removed from the Senate third reading calendar **Eng. House Bill 3556**.

Senator Takubo also announced that in the same meeting, the Committee on Rules had returned to the Senate calendar, on second reading, **Eng. Com. Sub. for House Bill 3261**.

The Senate proceeded to the seventh order of business.

Com. Sub. for Senate Concurrent Resolution 11, US Army SGT Brian Christopher Karim Memorial Road.

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

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

On page 2, in the Resolved clause, lines 6 through 8, by striking out the words "County Route 19 in Summers County, beginning at the intersection of Route 19/1 and County Route 19, and ending at the Monroe County line, locally known as Wayside Talcott Road" and inserting in lieu thereof the words "State Route 3 in Summers County, beginning at milepost 17.25, which is the intersection of Huston Road and State Route 3, and ending at milepost 19.96, which is the intersection of Graham House Road and State Route 3";

And,

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

Com. Sub. for Senate Concurrent Resolution 11—Requesting the Division of Highways name a stretch of State Route 3 in Summers County, beginning at milepost 17.25, which is the intersection of Huston Road and State Route 3, and ending at milepost 19.96, which is the intersection of Graham House Road and State Route 3, the "U. S. Army SGT Brian Christopher Karim Memorial Road."

The question being on the adoption of the resolution (Com. Sub. for S. C. R. 11), as amended, the same was put and prevailed.

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

Senate Resolution 46, Designating March 7, 2023, as Deaf Awareness Day at Legislature.

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

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2221, Relating to bankruptcy.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on March 3, 2023, for further amendments to be received on third reading, was read a third time.

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

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

ARTICLE 10. FEDERAL TAX LIENS; ORDERS AND DECREES IN BANKRUPTCY.

§38-10-4. Exemptions of property in bankruptcy proceedings.

Any person who files a petition under the federal bankruptcy law may exempt from property of the estate in a bankruptcy proceeding the following property:

(a) The debtor's interest, not to exceed \$35,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor: *Provided*, That when the debtor is a physician licensed to practice medicine in this state under §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code, and has commenced a bankruptcy proceeding in part due to a verdict or judgment entered in a medical professional liability action, if the physician has current medical malpractice insurance in the amount of at least \$1 million for each occurrence, the debtor physician's interest that is exempt under this subdivision may exceed \$35,000 in value but may not exceed \$250,000 per household.

(b) The debtor's interest, not to exceed \$7,500 in value, in one motor vehicle.

(c) The debtor's interest, not to exceed ~~\$400~~ 800 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor: *Provided*, That the total amount of personal property exempted under this subdivision may not exceed ~~\$8,000~~ \$16,000.

(d) The debtor's interest, not to exceed ~~\$1,000~~ \$2,000 in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(e) The debtor's interest, not to exceed in value \$800 plus any unused amount of the exemption provided under subdivision (a) of this subsection in any property.

(f) The debtor's interest, not to exceed ~~\$1,500~~ \$3,000 in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

(g) Any ~~unmeasured~~ unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

~~(h) The debtor's interest, not to exceed in value \$8,000 less any amount of property of the estate transferred in the manner specified in 11 U.S.C. § 542(d), in any accrued dividend or interest under, or loan value of, any unmeasured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent~~

(~~h~~) (h) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(~~i~~) (i) The debtor's right to receive:

(1) A Social Security benefit, unemployment compensation, or a local public assistance benefit;

(2) A veterans' benefit;

(3) A disability, illness, or unemployment benefit;

(4) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(5) A payment under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, and funds on deposit in an individual retirement account, including a simplified employee pension regardless of the amount of funds, unless:

(A) The plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

(B) The payment is on account of age or length of service;

(C) The plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986; and

(D) With respect to an individual retirement account, including a simplified employee pension, the amount is subject to the excise tax on excess contributions under Section 4973 and/or Section 4979 of the Internal Revenue Code of 1986, or any successor provisions, regardless of whether the tax is paid.

(~~j~~) (j) The debtor's right to receive or property that is traceable to:

(1) An award under a crime victim's reparation law;

(2) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

~~(3) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor~~

All life insurance proceeds paid to the debtor as a beneficiary, any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary, or any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value.

(4) A payment, not to exceed ~~\$15,000~~ \$50,000 on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(5) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(6) Payments made to the prepaid tuition trust fund or to the savings plan trust fund, including earnings, in accordance with §18-30-1 *et seq.* of this code on behalf of any beneficiary.

~~(j)~~ (k) Solely for the purpose of applying the provisions of 11 U.S.C. § 522(b)(2) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law, an individual debtor domiciled in this state may exempt from property of the debtor's bankruptcy estate the property specified under 11 U.S.C. § 522(d).

~~(m)~~ (l) The amendments made to this section during the ~~2024~~ 2023 regular session of the Legislature, ~~as amended during the first extraordinary session of the Legislature, 2021~~, shall apply to bankruptcies filed on or after the effective date of those amendments.

Engrossed Committee Substitute for House Bill 2221, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Chapman and Taylor—2.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2221) passed.

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

Eng. Com. Sub. for House Bill 2221—A Bill to amend and reenact §38-10-4 of the Code of West Virginia, 1931, as amended, relating to bankruptcy; correcting an erroneous term; updating the monetary amounts of certain exemptions to account for inflation, including those amounts related to household goods, jewelry, tools of the trade, and payments made on account of a personal bodily injury; excluding life insurance proceeds paid to the debtor as a beneficiary; excluding any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary; and, excluding any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value, from inclusion in the bankruptcy estate used to satisfy creditors in a bankruptcy proceeding.

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 2380, Relating to School Building Authority.

On third reading, coming up in regular order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Monday, March 6, 2023, for further amendments to be received on third reading, 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 House Bill 2569, Establishing the Motorsport Responsibility Act.

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

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2569) passed.

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

Eng. Com. Sub. for House Bill 2569—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-19-1, §20-19-2, §20-19-3, §20-19-4, §20-19-5, §20-19-6, §20-19-7, and §20-19-8, all relating to establishing the Motorsport Responsibility Act; providing legislative findings; defining terms; setting forth duties of motorsport operators; setting forth duties of motorsport participants; setting forth the liability of motorsport operators; setting forth the liability of motorsport participants; and providing rule-making authority.

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 2754, Relating to immunizations performed in a pharmacy.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2754) 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, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2754) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2817, Relating to Public Service Commission jurisdiction over alternative fuel for motor vehicles.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2817) passed with its title.

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

Eng. Com. Sub. for House Bill 2848, Water and Sewer Operator licensing reciprocity.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2848) passed with its title.

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

Eng. Com. Sub. for House Bill 2870, Correcting a reference relating to siting certificates for certain electric generating facilities.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2870) passed with its title.

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

Eng. House Bill 2906, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2906) 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, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2906) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2910, Making a supplementary appropriation to the Department of Administration, Public Defender Services.

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

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as his law firm receives funds from the Public Defender Services for court-appointed cases.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2910) 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, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2910) takes effect from passage.

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

Eng. House Bill 2915, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund.

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

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2915) 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, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2915) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2917, Relating to allowing retired state employees who meet the minimum qualifications necessary, to render post-retirement employment with the Department of Health and Human Resources.

On third reading, coming up in regular order, with the right having been granted on March 3, 2023, for amendments to be received on third reading, was read a third time.

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

On page 2, section 48, line 39, by striking out "\$20,000" and inserting in lieu thereof "\$25,000".

Engrossed Committee Substitute for House Bill 2917, as just amended, was then put upon its passage.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2917) passed.

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

Eng. Com. Sub. for House Bill 2917—A Bill to amend and reenact §5-10-48 of the code of West Virginia, 1931, as amended, relating to allowing certain retired state employees to render certain post-retirement employment with the Department of Health and Human Resources under certain circumstances; increasing the maximum compensation that may be earned by certain retired public employees who accept employment from a participating employer without suspending his or her retirement annuity; and allowing certain retired state employees to render certain post-retirement employment with the Department of Health and Human Resources under certain circumstances.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2917) takes effect from passage.

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

Eng. House Bill 3066, Supplementing and amending appropriations to the Department of Education, State Board of Education - State Aid to Schools.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3066) 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, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3066) takes effect from passage.

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

Eng. House Bill 3188, Relating to the establishment of an alert system for missing cognitively impaired persons.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3188) passed.

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

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, §15-3F-6, and §15-3F-7 of said code, all relating to the establishment of an alert system for missing cognitively impaired persons; providing legislative findings; defining cognitive disability; providing for the establishment of a Purple Alert Plan; 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.

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 3211, Relating to authorizing service credit for unused accrued annual or sick leave days for use in determining retirement benefits in the Municipal Police Officer and Firefighter Retirement System.

On third reading, coming up in regular order, with the right having been granted on March 3, 2023, for amendments to be received on third reading, was read a third time.

On motion of Senator Nelson, the following amendment to the bill was reported by the Clerk:

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

ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

§8-22A-27a. Credit toward retirement for member's accrued annual or sick leave days.

(a) For purposes of this section, an annual leave or sick leave day shall be the equivalent of eight hours of leave.

(b) Any member accruing annual leave or sick leave days may, after the effective date of this section, elect to use the days which stand to the member's credit with the member's last covered employment employer at the time of retirement to acquire additional credited service in this retirement system. The days shall be applied on the basis of one days' credit granted for each one day of accrued annual or sick leave days, with each month of retirement service credit to equal 20 days and with any remainder of 10 days or more to constitute a full month of additional credit and any remainder of less than 10 days to be dropped and not used, notwithstanding any provisions of this code to the contrary. The credited service shall be allowed and not considered to controvert the requirement of no more than 12 months' credited service in any year's period.

(c) Members employed by any covered employment employer with a policy for the accrual of unused sick and annual leave which is more generous than that of the State of West Virginia for its state agency employees shall receive service credit only for accrued unused sick and annual leave as provided for by the State of West Virginia for state employees who are covered by the rules of the West Virginia Division of Personnel. If the member is paid in a lump sum for accrued unused leave, the Board shall not consider the lump sum payment as annual compensation in computing a member's final average salary.

Following discussion,

The question being on the adoption of Senator Nelson's amendment to the bill, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 3211, as just amended, was then put upon its passage.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3211) passed.

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

Eng. Com. Sub. for House Bill 3211—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22A-27a, relating to authorizing service credit for unused accrued annual or sick leave days in the West Virginia Municipal Police Officers and Firefighters Retirement System; defining an annual leave or sick leave day as eight hours; authorizing service credit for unused accrued annual or sick leave days in the West Virginia Municipal Police Officers and Firefighters Retirement System; and limiting credit for accrued annual or sick leave days to the policy offered by the State of West Virginia for its state employees who are covered by the rules of the West Virginia Division of Personnel.

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 3265, Remove statutory mandates that the sheriff of a county shall serve process or is responsible for cost of service or arrest by another law enforcement agency.

On third reading, coming up in regular order, with the Government Organization committee amendment to the bill pending, and with the right having been granted on yesterday, Monday, March 6, 2023, for further amendments to be received on third reading, was read a third time.

The question being on the adoption of the Government Organization committee amendment to the bill (*shown in the Senate Journal of yesterday, Monday, March 6, 2023, page 76*), the same was put and prevailed.

Engrossed Committee Substitute for House Bill 3265, as just amended, was then put upon its passage.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3265) 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 3337, Prohibiting additional drug and alcohol treatment facilities and services in a certain county.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendments pending, and with the right having been granted on

yesterday, Monday, March 6, 2023, for further amendments to be received on third reading, was read a third time.

The following amendments to the bill, from the Committee on Health and Human Resources were reported by the Clerk, considered simultaneously, and adopted:

On page 1, section 9, line 4, by striking out "(c)(23)";

On page 1, section 9, line 8, by striking out the word "and";

And,

On page 1, section 9, line 13, by striking out "(b)(24)".

On motion of Senator Maroney, the following amendment to the bill (Eng. Com. Sub. for H. B. 3337) was next reported by the Clerk and adopted:

On page 1, section 9, lines 15-18, by striking out all of subdivision (5) and adding in lieu thereof a new subdivision, designated subdivision (5), to read as follows:

(5) Add licensed substance abuse treatment beds in any county which already has greater than 250 licensed substance abuse treatment beds.

Engrossed Committee Substitute for House Bill 3337, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Caputo and Taylor—2.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3337) passed.

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

Eng. Com. Sub. for House Bill 3337—A Bill to amend and reenact §16-2D-9 of the Code of West Virginia, 1931, as amended, relating to prohibiting a certificate of need; prohibiting additional drug and alcohol treatment facilities and services in certain counties.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Caputo and Taylor—2.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3337) takes effect from passage.

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

Eng. House Bill 3396, Supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3396) 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, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3396) takes effect from passage.

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

Eng. House Bill 3556, Uniform Recognition and Enforcement of Canadian Domestic Violence Protective Orders Act.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2002, Relating to providing support for families.

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

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

On page 2, section 7, line 6, by striking out the word "federal" and inserting in lieu thereof the words "federally approved".

The bill (Eng. Com. Sub. for H. B. 2002), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2004, Prevent the use of payment card processing systems for surveillance of Second Amendment activity and discriminatory conduct.

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

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

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

ARTICLE 2A. MAXWELL GOVERNMENTAL ACCESS TO FINANCIAL RECORDS ACT.

§31A-2A-4. Exceptions.

(a) Nothing in this article is intended to, or shall prohibit, apply to, or interfere with:

(1) The lawful authority or ability of the commissioner of banking or any other state or federal regulatory agency of a bank, savings and loan association, trust company, or credit union to obtain or to share between such regulatory agencies any records which the commissioner of banking or such state or federal regulatory agency may deem appropriate for the examination and regulation of the financial institution: Provided, That nothing in this subdivision permits disclosure of protected financial information in violation of §31A-2B-1 et seq. of this code;

(2) The lawful authority or ability of the ~~Commissioner of Insurance~~ Commissioner or the State Auditor to obtain any records from a financial institution relating to the financial institution's sale of insurance or securities;

(3) The dissemination or publication of information derived from financial records if the information cannot be identified to any particular customer, deposit, or account, or if the information is in composite form and is not disseminated or published in a way which identifies any particular customer, deposit, or account;

(4) The making of reports or returns specifically required or permitted by federal or state law, including applicable tax law or regulations;

(5) The disclosure of any information under the provisions of the uniform commercial code governing the dishonor of a negotiable instrument, or the disclosure to any purported state entity payee or to any purported state entity holder of a check, draft, order, or other item, whether or not such instrument has been accepted by such payee or holder as payment, as to whether or not such instrument would be honored if presented at the time of such disclosure;

(6) A state entity obtaining a credit report or consumer credit report from anyone other than a financial institution;

(7) The exchange, in the regular course of business, of information showing the outstanding balance of a mortgage loan account in connection with a sale, refinancing, or foreclosure of real property in a transaction to which the state entity is a party; or the disclosure, in the regular course of business, of information on a mortgage or deed of trust on a subject property to a state entity as holder of any subordinate mortgage, deed of trust or security interest;

(8) The disclosure to the Department of Health and Human Resources, upon written request, of an individual's financial records which the department determines are necessary to verify or confirm the individual's eligibility or ineligibility for public assistance;

(9) The disclosure of an individual's financial records in response to a written request by the Department of Health and Human Resources, as authorized by the federal parent locator service of the United States Department of Health and Human Services;

(10) The examination or audit of financial records relating to preneed funeral trust accounts pursuant to §47-14-1 *et seq.* of this code;

(11) The disclosure of financial records relating to unclaimed property pursuant to §36-8-1 *et seq.* of this code, including the examination of financial records by the State Treasurer or his or her agent to determine compliance with the handling and reporting of unclaimed property as provided by, and subject to, the limitations set forth in §36-8-20 of this code;

(12) The presentation to appropriate local, state, or federal law-enforcement authorities of a certificate under oath by an authorized representative of a financial institution drawee that declares the dishonor of the check, draft, or order by the drawee, the lack of an account with the drawee at the time of utterance or the insufficiency of the drawer's funds at the time of presentation and utterance in connection with any criminal action for obtaining property or services by a worthless check, draft, or order;

(13) The notification to appropriate local, state, or federal law-enforcement authorities or regulatory agencies that the financial institution, its officers, employees or agents thereof have information which may be relevant to a possible violation of any statute or regulation: *Provided, That nothing in this subdivision permits disclosure of protected financial information in violation of §31A-2B-1 et seq. of this code.* The disclosure of any information pursuant to this subdivision may only include the name or other identifying information concerning any individual, corporation, or account involved in and the nature of any suspected illegal activity;

(14) The disclosure of information or records by a financial institution to any court or other appropriate state entity which is incidental to recording a lien, perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary;

(15) The disclosure of information or records by a financial institution which is incidental to processing an application for assistance to a customer in the form of a government loan, loan guaranty, or loan insurance agreement, or which is incidental to processing a default on, or administering, a government guaranteed or insured loan or to initiating contact with an appropriate state entity for the purpose of providing any financial record necessary to permit such authority to carry out its responsibilities under a loan, loan guaranty, or loan insurance agreement;

(16) The disclosure of information incidental to a transaction in the normal course of business of the financial institution where there is no reasonable cause to believe that the information is intended to be used by the state entity in connection with an investigation of the customer;

(17) The preparation, review, handling, or maintenance of financial records in the ordinary course of business by any officer, employee, or agent of a financial institution having custody of the records; or

(18) The disclosure to appropriate law-enforcement officials of the financial records of any officer, director, employee, or controlling shareholder of a financial institution by a financial institution or by any state or federal regulatory agency having authority to regulate the financial institution, if there is reason to believe that the financial record is relevant to a possible violation by such person of any law relating to a crime against the financial institution or any such state or federal regulatory agency. No state or federal regulatory agency which discloses any information pursuant to this subdivision shall be deemed to have waived any privilege applicable to that record under law.

(b) Nothing in this article shall preclude a state entity from obtaining information that is public record without regard to this article although the information may have been derived from financial records.

(c) Nothing in this article shall preclude a state entity from obtaining information or financial records voluntarily submitted to it by others in an attempt to seek governmental assistance or redress of a grievance, including legislative change: *Provided*, That the financial record or information was not solicited by the state entity in an effort to evade the requirements of this article or submitted by a financial institution in contravention of §31A-2A-7 of this code.

(d) Notwithstanding the exceptions set forth in this section, a financial institution may not disclose financial records to a state entity and a state entity may not compel disclosure of financial records in a manner that singles out or discriminates against any person based on activity protected by the Second Amendment to the United States Constitution or Section 22, Article III of the West Virginia Constitution.

ARTICLE 2B. THE SECOND AMENDMENT FINANCIAL PRIVACY ACT.

§31A-2B-1. Short title.

This article shall be known and may be cited as the "Second Amendment Financial Privacy Act."

§31A-2B-2. Findings and intent.

(a) The Legislature finds that:

(1) The Second Amendment to the United States Constitution guarantees the people the right to keep and bear arms;

(2) Section 22, Article III of the West Virginia Constitution provides that "[a] person has the right to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use";

(3) In September of 2022, the International Organization for Standardization, based in Switzerland, approved a unique Merchant Category Code for firearm and ammunition retailers;

(4) Later in September of 2022, the world's three largest payment card networks publicly announced they would assign the new Merchant Category Code to firearms retailers accepting payment cards for purchases, after 28 members of Congress sent a public letter to networks, pressuring them to adopt the new code;

(5) In the letter to payment card networks, federal lawmakers stated that the new Merchant Category Code for firearms retailers would be "[. . .] the first step towards facilitating the collection of valuable financial data that could help law enforcement in countering the financing of terrorism efforts", expressing a clear government expectation that networks will utilize the new Merchant Category Code to conduct mass surveillance of constitutionally protected firearms, firearm accessories or components, and ammunition purchases in cooperation with law enforcement;

(6) The new Merchant Category Code will allow the banks, payment card networks, acquirers, and other entities involved in payment card processing to identify and separately track lawful payment card purchases at firearms retailers in West Virginia, paving the way for both unprecedented surveillance of Second Amendment activity and unprecedented information sharing between financial institutions and the government;

(7) This potential for cooperative surveillance and tracking of lawful firearms, firearm accessories or components, and ammunition purchases will have a significant chilling effect on citizens wishing to exercise their federal and state constitutional rights to keep and bear arms in West Virginia;

(8) While federal law requires some financial institutions to report transactions that are highly indicative of money laundering or other unlawful activities, there is no federal or state law authorizing financial institutions to surveil and track lawful activities by customers in cooperation with law enforcement; in fact, both the federal Right to Financial Privacy Act and West Virginia's Maxwell Governmental Access to Financial Records Act prohibit financial institutions from disclosing a customer's financial records except in limited circumstances; and

(9) This article should be construed as a generally applicable consumer financial protection law that does not prevent or significantly interfere with the duly authorized powers of any bank, nor does this article directly or indirectly discriminate against any bank based on its charter or structure.

(b) Based on the above-stated findings, it is the intent of the Legislature to prohibit the misuse of payment card processing systems to surveil, report, or otherwise discourage constitutionally protected firearm, firearm accessories or components, and ammunition purchases and sales within West Virginia's jurisdiction.

§31A-2B-3. Definitions.

(a) The terms used in this article shall have the same meaning provided in §31A-2A-1 of this code, unless otherwise specified in this section.

(b) For the purposes of this article, the following terms have the following meanings:

(1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(2) "Assign" or "assignment" refers to a financial institution policy, process, or practice that labels, links, or otherwise associates a firearms code with a merchant or payment card transaction in a manner that allows the financial institution or any other entity facilitating or processing the payment card transaction to identify whether a merchant is a firearms retailer or whether a transaction involves the sale of firearms, firearm accessories or components, or ammunition.

(3) "Customer", in addition to the definition provided in §31A-2A-1(a) of this code, includes any person who presents a payment card to a merchant for the purchase of goods or services.

(4) "Disclosure" means the transfer, publication, or distribution of protected financial information to another person for any purpose other than to process or facilitate a payment card transaction.

(5) "Financial institution", in addition to the definition provided in §31A-2A-1(b) of this code, includes an entity other than a merchant involved in facilitating or processing a payment card transaction, including, but not limited to, a bank, acquirer, gateway, payment card network, or payment card issuer.

(6) "Financial record", in addition to the definition provided in §31A-2A-1(c) of this code, includes a financial record held by a financial institution related to a payment card transaction that the financial institution has processed or facilitated.

(7) "Firearm" has the same meaning as that term is defined in §61-7-2 of this code and includes antique firearms.

(8) "Firearm accessories or components" means:

(A) Any device specifically adapted to enable the wearing or carrying about one's person or the storage or mounting in or on any conveyance of a firearm and any attachment or device specifically adapted to be inserted into or affixed onto any firearm to enable, alter, or improve the functioning or capabilities of the firearm;

(B) Any item that is used in conjunction with or mounted upon a firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, braces, ammunition carriers, and lights for target illumination; and

(C) Any component for making ammunition, reloading materials and equipment, machinery, and tools for manufacturing ammunition.

(9) "Firearms code" means any code or other indicator a financial institution assigns to a merchant or to a payment card transaction that identifies whether a merchant is a firearms retailer or whether the payment card transaction involves the purchase of a firearm, firearm accessories or components, or ammunition. The term includes, but is not limited to, a Merchant Category Code assigned to a retailer by a payment card network or other financial institution.

(10) "Firearms retailer" means any person engaged in the lawful business of selling or trading firearms or antique firearms, as those terms are defined in §61-7-2 of this code, firearm accessories or components, or ammunition to be used in firearms or antique firearms.

(11) "Government entity" means any state or local government agency or instrumentality thereof, located in West Virginia.

(12) "Merchant" means a person or entity that accepts payment cards from customers for the purchase of goods or services. The term includes a firearms retailer that accepts payment cards for the lawful purchase of firearms, firearm accessories or components, or ammunition.

(13) "Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to purchase goods or services from a merchant.

(14) "Protected financial information" means any record of a sale, purchase, return, or refund involving a payment card that is retrieved, characterized, generated, labeled, sorted, or grouped based on the assignment of a firearms code. A "customer's protected financial information" refers to protected financial information appearing in a financial institution's records pertaining to a customer.

§31A-2B-4. Protected financial information.

A financial institution is prohibited from disclosing a customer's protected financial information to a government entity and a government entity is prohibited from accessing or obtaining said information unless:

(1) Disclosure is expressly permitted by §31A-2A-4 of this code and the protected financial information is not singled out, segregated, or disclosed based on the assignment of a firearms code;

(2) Disclosure is made pursuant to a valid warrant issued in a criminal investigation, stating the grounds or probable cause for its issuance, and otherwise meeting the requirements of §62-1A-3 of this code;

(3) The customer has provided written authorization for disclosure, according to the requirements of §31A-2B-5 of this code;

(4) Disclosure is made pursuant to a subpoena meeting the requirements of §31A-2A-5 and §31A-2B-6 of this code or to a grand jury subpoena meeting the requirements of §31A-2A-6 of this code; or

(5) The financial institution discloses only the following information:

(A) That the financial institution is not in possession of the protected financial information; and

(B) The identity of the entity that is in possession of the requested protected financial information.

§31A-2B-5. Written authorization for disclosure.

(a) Notwithstanding §31A-2B-4 of this code, a financial institution may disclose a customer's protected financial information to a government entity if the customer provides the financial institution with written authorization for said disclosure. The written authorization described by this section must contain the following:

(1) A statement that the customer consents to the disclosure of the protected financial information, along with the definition provided in §31A-2B-3(14) of this code, for a specific period;

(2) A statement that the customer has the right to refuse to consent to disclosure;

(3) A statement that the customer understands his or her right to revoke said consent at any time before the protected financial information is disclosed;

(4) A description of the financial records authorized to be disclosed;

(5) The purpose for which disclosure of the protected financial information is authorized;

(6) The recipient or recipients of the disclosure; and

(7) The customer's signature.

(b) The written authorization described in this section may not be required as a condition of doing business or transacting with any financial institution.

(c) The written authorization required by this section must be executed distinctly and separately from other agreements or instruments entered into between the customer and financial institution.

§31A-2B-6. Additional requirements for subpoenas.

A subpoena issued by a government entity that specifically requires disclosure of protected financial information must meet the following requirements, in addition to the requirements of §31A-2A-5 of this code:

(1) The subpoena must state that protected financial information is being sought, along with the definition provided in §31A-2B-3(14) of this code;

(2) A copy of the subpoena must be served upon the customer according to the procedure provided in §31A-2A-5 of this code and the subpoena must contain a certification that said service was executed; and

(3) A copy of the subpoena must be served by the government entity upon the Consumer Protection Division of the West Virginia Attorney General's Office on the same day the subpoena is served upon the customer whose protected financial data is being sought and the subpoena must contain a certification that said service was executed.

§31A-2B-7. Use of protected financial information for discriminatory purpose.

A financial institution may not use a firearms code to engage in the following discriminatory conduct:

(1) Declining a lawful payment card transaction based on the assignment of a firearms code to the merchant or transaction;

(2) Limiting or declining to do business with a customer, potential customer, or merchant based on the assignment of a firearms code to previous lawful transactions involving the customer, potential customer, or merchant;

(3) Charging a higher transaction or interchange fee to any merchant or for a lawful transaction, as compared to the fee charged to a similarly situated merchant or for a similar transaction, based on the assignment of a firearms code; or

(4) Otherwise taking any action against a customer or merchant that is intended to suppress lawful commerce involving firearms, firearm accessories or components, or ammunition.

§31A-2B-8. Civil remedies.

(a) Subject to subsection (c) of this section, a customer may bring a civil action for damages, injunctive relief, or both damages and injunctive relief against any financial institution or government entity that causes the customer's protected financial information to be disclosed in violation of this article. For each violation, the individual may recover:

(1) Against any person who negligently or recklessly violates this article, liquidated damages of \$10,000 or actual damages, whichever is greater; or

(2) Against any person who intentionally violates this article, liquidated damages of \$25,000 for each or actual damages, whichever is greater.

(b) Subject to subsection (c) of this section, a customer or merchant aggrieved by a violation of §31A-2B-7 of this code may bring a civil action for damages, injunctive relief, or both damages and injunctive relief. Said person may recover liquidated damages of \$50,000 or actual damages, whichever is greater.

(c) Right to cure. – Prior to an aggrieved party bringing a civil action pursuant to this section, a financial institution shall have the right to cure an alleged violation of this section, according to the procedures, restrictions, and requirements set forth in §46A-5-108(a) of this code: *Provided*, That both parties must follow the procedures set forth therein.

(d) Attorney's fees. – If a court finds that a violation of this article has occurred as the result of a civil action brought pursuant to subsection (a) or subsection (b) of this section, the court shall award reasonable attorney's fees to the aggrieved party. An award of attorney's fees is subject to the same limitations set forth in §46A-5-108(f) of this code.

(e) Statute of Limitations. – Any action under this article is barred unless the action is commenced within five years after the aggrieved party knows or reasonably should know of the violation. The statute of limitations provided herein is tolled for the 45-day period set forth in §46A-5-108(a) of this code or for the period the effectuation of the cure offer is being performed, whichever is longer.

(f) The remedies provided in this article are the exclusive civil remedies available to an aggrieved party for violations of this article.

§31A-2B-9. Enforcement; contractual authority of the State.

(a) Notwithstanding any other provisions of this chapter, the Commissioner of Banking is authorized to administratively enforce the requirements of this article consistent with §31A-2-4 of this code.

(b) The Attorney General is authorized to investigate compliance with this article and may bring a civil action for injunctive relief to judicially enforce this article: *Provided*, That with regard to a national bank, the Attorney General is authorized to conduct investigations and take judicial enforcement action only to the extent permitted by 12 U.S.C. §25b(i). Upon awarding an injunction against a financial institution as the result of a judicial enforcement action pursuant to this subsection, a court may award the Attorney General reasonable attorney's fees.

(c) In selecting a financial institution to provide a financial service or product to the state related to payment card processing, the State Treasurer may disqualify a financial institution from the competitive bidding process or from any other official selection process if:

(1) During the past five years, a court of competent jurisdiction has entered an order or opinion finding that the financial institution violated this article;

(2) During the past five years, the Commissioner of Banking or the Attorney General, as the result of an investigation, has determined that a financial institution has violated this article;

(3) During the past five years, the financial institution has admitted to violating this article in the records of a court or other official proceeding; or

(4) The financial institution has publicly stated that it has adopted or intends to adopt policies or practices that violate this article.

§31A-2B-10. Scope and Severability.

(a) Nothing in this article may be construed or applied in a manner that violates or conflicts with superseding federal law.

(b) The sections and provisions of this article are severable. If any section or provision of this article is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the other sections and provisions of this article, which shall remain in full force and effect.

Senators Trump and Nelson, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Trump and Nelson would be as members of a class of persons and that they would be required to vote.

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

The bill (Eng. Com. Sub. for H. B. 2004), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2026, Authorizing municipalities with police or firefighter employees in PERS to elect to become participating employer in Municipal Police Officer and Firefighter Retirement System for a limited time.

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

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

Eng. House Bill 2283, Relating to authorized expenditures of revenues from certain state funds for fire departments.

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

Eng. Com. Sub. for House Bill 2509, Creating the Uniform Premarital Agreement Act.

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

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

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

ARTICLE 1A. UNIFORM PREMARITAL AGREEMENT ACT.

§48-1A-101. Definitions.

As used in this article:

(a) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage and includes the definition of the term prenuptial agreement as set forth in §48-1-203 of this code.

(b) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property including income and earnings.

§48-1A-201. Formalities.

A premarital agreement must be in writing and signed by both parties and contain an acknowledgement that both parties have had an opportunity to consult with separate legal counsel. It is enforceable without consideration.

§48-1A-301. Content.

(a) Parties to a premarital agreement may contract with respect to:

(1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of or otherwise manage and control property;

(3) The disposition of property upon separation, marital dissolution, death or the occurrence or nonoccurrence of any other event;

(4) The modification or elimination of spousal support;

(5) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;

(6) The ownership rights in and disposition of the death benefit from a life insurance policy;

(7) The choice of law governing the construction of the agreement; and

(8) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by premarital agreement.

§48-1A-401. Effect of marriage.

A premarital agreement becomes effective upon marriage.

§48-1A-501. Amendment; revocation.

After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement, or the revocation, is enforceable without consideration.

§48-1A-601. Enforcement.

(a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(1) That party did not execute the agreement voluntarily;

(2) Either party was under the age of 18 when the marriage occurred; or

(3) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(A) Was not provided adequate financial disclosures of the other party as set forth in subsection (b) of this section;

(B) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(C) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) A party has adequate financial disclosure under this section if the party:

(1) Receives a reasonably accurate description and good-faith estimate of value of the property, liabilities, and income of the other party;

(2) Expressly waives, in a separate signed record, the right to financial disclosure beyond the disclosure provided; or

(3) Has adequate knowledge, or a reasonable basis for having adequate knowledge, of the information described in subdivision (1) of this section.

(c) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, the family court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(d) A court may refuse to enforce a term of a premarital agreement if, in the context of the agreement taken as a whole:

(1) The term was unconscionable at the time of signing; or

(2) Enforcement of the term would result in substantial hardship for a party because of a material change in circumstances arising after the agreement was signed.

(e) The issues of unconscionability of a premarital agreement or substantial hardship shall be decided by the family court as a matter of law.

§48-1A-701. Unenforceable terms.

(a) A term in a premarital agreement or marital agreement is not enforceable to the extent that it:

(1) Adversely affects a child's right to support;

(2) Limits or restricts a remedy available to a victim of domestic violence under law of this state;

(3) Purports to modify the grounds for a court-decreed separation or marital dissolution available under the law of this state; or

(4) penalizes a party for initiating a legal proceeding leading to a court-decreed separation or marital dissolution.

(b) A term in a premarital agreement or marital agreement which defines the rights or duties of the parties regarding custodial responsibility is not binding on the court.

§48-1A-801. Enforcement; void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

§48-1A-901. Limitation of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

§48-1A-1001. Application; construction; and effective date.

(a) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(b) This article applies to premarital agreements signed on or after July 1, 2023.

§48-1A-1101. Short title.

This article may be cited as the "Uniform Premarital Agreement Act."

The bill (Eng. Com. Sub. for H. B. 2509), as amended, was then ordered to third reading.

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

On motion of Senator Takubo, at 12:18 p.m., the Senate recessed until 4:30 p.m. today.

The Senate reconvened at 4:48 p.m. and resumed consideration of the remainder of its second reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 2540, Travel Insurance Model Act.

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

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

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

ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.**§33-12-32b. Travel Insurance Entity Producer Limited License Act.**

[Repealed.]

ARTICLE 62. TRAVEL INSURANCE MODEL ACT.**§33-62-1. Short title.**

This article shall be known as the "Travel Insurance Model Act."

§33-62-2. Purposes and scope.

(a) The purpose of this article is to promote the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in this state through the establishment of clear regulatory obligations for those involved in the development and distribution of travel insurance, preserving the unique aspects of travel protection plans, and protecting and benefiting consumers by encouraging fair and effective competition within the market.

(b) The requirements of this article shall apply to travel insurance, whether or not provided as part of a travel protection plan, where policies and certificates are delivered or issued for delivery in this state. This article shall not be applicable to cancellation fee waivers and travel assistance services, except as expressly provided herein.

(c) All other applicable provisions of chapter 33 of this code shall continue to apply to travel insurance, except that the specific provisions of this article shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

§33-62-3. Definitions.

As used in this article:

(1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping;

(2) "Blanket travel insurance" means travel insurance issued to any eligible group providing coverage for specified circumstances and specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group;

(3) "Cancellation fee waiver" means a contractual agreement between a supplier of travel arrangements or travel services and its customer to waive some or all of the non-refundable cancellation fee or penalty provisions of the underlying travel contract between the supplier and customer with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance;

(4) "Commissioner" means the commissioner of insurance of this state;

(5) "Eligible group" means any of the following:

(A) Any entity engaged in the business of providing travel or travel services, including, but not limited to, tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers, or the operator, owner, or lessor of a means of transportation of passengers, including, but not limited to, airlines, cruise lines, railroads, steamship companies, and public bus carriers;

(B) Any college, school, or other institution of learning covering students, teachers, or employees defined by reference to specified hazards incident to activities or operations of the institution of learning;

(C) Any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests, defined by reference to specified hazards incident to activities or operations of the employer;

(D) Any sports team, camp, or sponsor thereof covering participants, members, campers, employees, officials, supervisors, or volunteers;

(E) Any religious, charitable, recreational, educational, or civic organization or branch thereof covering any group of members, participants, or volunteers defined by reference to specified hazards incident to any activity or activities or operations sponsored or supervised by or on the premises of such organization or branch;

(F) Any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institution or financial institution vendor, under which accountholders, credit card holders, debtors, guarantors, or purchasers are insured;

(G) Any incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association;

(H) Any trust or the trustees of a fund established, created, or maintained for the benefit of members or customers of one or more associations meeting the above requirements;

(I) Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;

(J) Any newspaper or other publisher covering its journalists and carriers;

(K) Any volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group, or agency having jurisdiction thereof, covering all or any group of the members, participants, or volunteers of such group;

(L) Preschools, daycare institutions for children or adults, and senior citizen clubs;

(M) Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this section applies; or

(N) Any other group where the commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the best interests of the public;

(5) "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details;

(6) "Group travel insurance" means travel insurance issued to any eligible group;

(7) "Limited lines travel insurance producer" means a:

(A) Licensed managing general agent or third party administrator;

(B) Licensed insurance producer, including a limited lines producer; or

(C) Travel administrator;

(8) "Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the state;

(9) "Primary certificate holder" means an individual person who elects and purchases travel insurance under a group policy;

(10) "Primary policyholder" means an individual person who elects and purchases individual travel insurance;

(11) "Travel administrator" means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this state, in connection with travel insurance, except that a person shall not be considered a travel administrator if that person's only actions that would otherwise cause it to be considered a travel administrator are among the following:

(A) A person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator;

(B) An insurance producer selling insurance or engaged in administrative and claims related activities within the scope of the producer's license;

(C) A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this article;

(D) An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with insurance coverage; or

(E) A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer;

(12) "Travel assistance services" means non-insurance services that may be distributed by limited lines travel insurance producers or other entities, and for which there is no indemnification for the travel protection plan customer based on a fortuitous event, nor any transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include, but are not limited to, security advisories; destination information; vaccination and immunization information services; travel reservation services; entertainment; activity and event planning; translation assistance; emergency messaging; international legal and medical referrals; medical case monitoring; coordination of transportation arrangements; emergency cash transfer assistance; medical prescription replacement assistance; passport and travel document replacement assistance; lost luggage assistance; concierge services; and any other service that is furnished in connection with planned travel. Travel assistance services are not insurance and not related to insurance;

(13) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including, but not limited to:

(A) Interruption or cancellation of trip or event;

(B) Loss of baggage or personal effects;

(C) Damages to accommodations or rental vehicles;

(D) Sickness, accident, disability, or death occurring during travel;

(E) Emergency evacuation;

(F) Repatriation of remains; or

(G) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the commissioner.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six months or longer, including, for example, those working overseas as an expatriate or military personnel being deployed, or any other product that requires a specific insurance producer license;

(14) "Travel protection plans" means plans that provide one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers; and

(15) "Travel retailer" means a business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

§33-62-4. Licensing and registration.

(a) The commissioner may issue to an individual or business entity that has filed with the commissioner an application for such limited license in a form and manner prescribed by the commissioner, a limited lines travel insurance producer license that authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer. No person may act as a limited lines travel insurance producer or travel insurance retailer unless properly licensed or registered, respectively. The annual fee for a limited lines travel insurance producer license is \$200.

(b) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

(1) The limited lines travel insurance producer or travel retailer provides to purchasers of travel insurance:

(A) A description of the material terms or the actual material terms of the insurance coverage;

(B) A description of the process for filing a claim;

(C) A description of the review or cancellation process for the travel insurance policy; and

(D) The identity and contact information of the insurer and limited lines travel insurance producer;

(2) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal tax identification number. The limited lines travel insurance producer shall submit such register to the commissioner upon reasonable request. The limited lines travel insurance producer shall also certify that the travel retailer registered complies with 18 U.S.C. § 1033. The grounds for the suspension, revocation, and the penalties applicable to resident insurance producers under §33-12-24 of this code shall be applicable to the limited lines travel insurance producers and travel retailers;

(3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the person (a "designated responsible producer" or "DRP") responsible for the limited lines travel insurance producer's compliance with the travel insurance laws, rules, and regulations of the state;

(4) The DRP, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer;

(5) The limited lines travel insurance producer has paid all applicable insurance producer licensing fees as set forth in applicable state law; and

(6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(c) Limited lines travel insurance producers, and those registered under their licenses, are exempt from the examination requirements under §33-12-9 of this code and the pre-licensing and continuing education requirements of §33-12-8 of this code.

(d) Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that:

(1) Provide the identity and contact information of the insurer and the limited lines travel insurance producer;

(2) Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

(3) Explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the

insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(e) A travel retailer's employee or authorized representative, who is not licensed as an insurance producer may not:

(1) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(2) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(3) Hold himself or itself out as a licensed insurer, licensed producer, or insurance expert.

(f) Notwithstanding any other provision in this chapter, a travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this article, is authorized to do so and receive related compensation, upon registration by the limited lines travel insurance producer as described in subdivision (2), subsection (b) of this section.

(g) Responsibility. — As the insurer designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this article.

(h) A licensee under this section is subject to the provisions of § 33-12-6b of this code as if it were an insurance agency.

(i) License renewal. — The commissioner shall annually renew, on the expiration date as provided in this subsection, the license of a licensee who qualifies and applies for renewal on a form prescribed by the commissioner and pays the fee set forth in subsection (a) of this section: *Provided*, That the commissioner may fix the dates of expiration of limited lines travel insurance producer licenses as he or she considers advisable for efficient distribution of the workload of his or her office:

(1) If the fixed expiration date would upon first occurrence shorten the period for which a license fee has been paid, no refund of unearned fee shall be made;

(2) If the fixed expiration date would upon first occurrence lengthen the period for which a license fee has been paid, the commissioner may charge no additional fee for the lengthened period;

(3) If a date is not fixed by the commissioner, each license shall, unless continued as provided in this subsection, expire at midnight on June 30 following issuance; and

(4) A licensee that fails to timely renew its license may reinstate its license, retroactive to the expiration date, upon submission of the renewal application within 12 months after the expiration date and payment of a penalty in the amount of \$50.

(j) *Appointment.* — Limited lines travel insurance producer may not act as an agent of an insurer unless the insurer appoints the limited lines travel insurance producer as its agent, as follows:

(1) The insurer shall file, in a format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed and shall pay a nonrefundable appointment processing fee in the amount of \$25: *Provided*, That an insurer may elect to appoint a limited lines travel insurance producer to all or some insurers within the insurer's holding company system or group by filing a single notice of appointment;

(2) Upon receipt of a notice of appointment, the commissioner shall verify within a reasonable time, not to exceed 30 days, that the limited lines travel insurance producer is eligible for appointment: *Provided*, That the commissioner shall notify the insurer within five days of a determination that the limited lines travel insurance producer is ineligible for appointment;

(3) The insurer shall remit, no later than midnight on May 31 annually and in a manner prescribed by the commissioner, a renewal appointment fee for each appointed limited lines travel insurance producer in the amount of \$25; and

(4) The insurer shall maintain a current list of limited lines travel insurance producers appointed to accept applications on behalf of the insurer, and shall make the list available to the commissioner upon reasonable request for purposes of conducting investigations and enforcing the provisions of this chapter.

§33-62-5. Premium tax.

(a) A travel insurer shall pay premium tax, as provided in §33-31-14 and §33-34-14a of this code, on travel insurance premiums paid by any of the following:

(1) An individual primary policyholder who is a resident of this state;

(2) A primary certificate holder who is a resident of this state who elects coverage under a group travel insurance policy; or

(3) An eligible group policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary in, this state that purchases a blanket travel insurance policy for eligible blanket group members, subject to any apportionment rules that apply across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(b) An insurer shall obtain and maintain documentation necessary to determine the state to which premium tax should be reported based on information provided by the policyholder or certificate holder, as applicable, and shall report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

§33-62-6. Forms and rates.

(a) Notwithstanding any other provision of this chapter, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance: *Provided*, That travel insurance that provides coverage for sickness, accident, disability, or death occurring during

travel, either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, may be filed under either an accident and health line of insurance or an inland marine line of insurance.

(b) All travel Insurance policies, certificates of insurance, endorsements, riders, and rates delivered, issued for delivery, or charged in this state shall be filed with the commissioner before being used. No policy, certificate of insurance, or endorsement shall be issued until the expiration of 30 days after it has been filed, unless the commissioner shall have given prior written approval.

(c) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, and the travel insurance offered as part of the travel protection plan may be offered as individual travel insurance, group travel insurance, or blanket travel insurance.

§33-62-7. Travel protection plans.

Travel protection plans may be offered for one price in this state if:

(1) The travel insurance, travel assistance services, and cancellation fee waivers are clearly delineated in the travel protection plan's fulfillment materials. The fulfillment materials shall include the travel insurance disclosures required under this code and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable; and

(2) The travel protection plan clearly discloses to the consumer at or prior to the time of purchase and fulfillment that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides an opportunity for the consumer to obtain additional information regarding the features and pricing of each.

§33-62-8. Sales practices.

(a) All persons offering travel insurance to residents of this state are subject to the Unfair Trade Practices provisions of §33-11-1 *et seq.* of this code, except as otherwise provided in this section. In the event of a conflict between this article and other provisions of this chapter regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this article shall control.

(b) *Illusory Travel Insurance.* — Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under §33-11-1 *et seq.* of this code.

(c) Marketing.

(1) All documents provided to consumers prior to the purchase of travel insurance, including, but not limited to, sales materials, advertising materials, and marketing materials, shall be consistent with all travel insurance policy documents, including, but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

(2) Travel insurance policies or certificates that contain preexisting condition exclusions must provide information and an opportunity to learn more about the preexisting condition exclusions any time prior to purchase, and in the coverage's fulfillment materials.

(3) The fulfillment materials and the information described in §33-62-4(b)(1) of this code shall be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

(A) Fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or

(B) Ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail. For the purposes of this section, "delivery" means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

(4) The company shall disclose in the policy fulfillment and documentation whether the travel insurance is primary or secondary to other applicable coverage.

(5) Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

(d) Opt out. — Unless otherwise permitted by this code or federal law, no person offering travel insurance or travel protection plans on an individual or group basis may do so using negative option or opt-out, which would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form when the consumer purchases a trip.

(e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

(f) Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(1) Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(2) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

§33-62-9. Travel administrators.

(a) Notwithstanding any other provisions of this chapter, no person shall act or represent itself as a travel administrator in this state unless that person:

(1) Is a licensed property and casualty insurance producer in this state for activities permitted under that producer license;

(2) Holds a valid managing general agent (MGA) license in this state pursuant to §33-37-1 et seq. of this code; or

(3) Holds a valid third-party administrator (TPA) license in this state pursuant to §33-46-1 et seq. of this code.

(b) A travel administrator and its employees are exempt from the licensing requirements of §33-12B-1 et seq. of this code.

(c) An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer, and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the commissioner upon request.

§33-62-10. Policy.

Travel insurance may be provided under an individual policy or under a group or blanket policy.

§33-62-11. Enforcement.

(a) The commissioner may conduct investigations or examinations of travel insurers, limited lines travel insurance producers, travel retailers, and travel administrators to enforce the provisions of this article to protect resident travel insurance consumers.

(b) The commissioner may take action, following notice and a hearing pursuant to §33-2-13 of this code, as necessary or appropriate to enforce the provisions of this article, any order of the commissioner, and any other provision of state law to protect consumers of travel insurance in this state.

§33-62-12. Rulemaking.

The commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this article.

The bill (Eng. Com. Sub. for H. B. 2540), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2759, Relating to updating the health care provider tax.

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

Eng. Com. Sub. for House Bill 2896, Relating to making West Virginia an Agreement State with the U. S. Nuclear Regulatory Commission.

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

At the request of Senator Martin, unanimous consent being granted, the bill was referred to the Committee on Finance.

Eng. Com. Sub. for House Bill 2900, Relating to the Deputy Sheriff Retirement System.

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

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

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

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.

§7-14D-24a. Return to covered employment by retired member.

(a) The annuity of any member who retires under the provisions of this article and who resumes service in covered employment shall be suspended while the member continues in covered employment. The monthly annuity payment for the month in which the service resumes shall be prorated to the date of commencement of service, and the member shall again become a contributing member during resumption of service. At the conclusion of resumed service in covered employment the member shall have his or her annuity recalculated to take into account the entirety of service in covered employment.

(b) Notwithstanding the provisions of subsection (a) of this section, the annuity of a member who retires under the provisions of this article shall not be suspended if the member resumes covered employment and the following conditions are met:

(1) The member has been retired for at least 180 days;

(2) The retired member did not retire as a result of a disability pursuant to the provisions of §7-14D-14 of this code;

(3) The retired member is a certified, or certifiable, law-enforcement officer as provided in §30-29-5 of this code;

(4) The sheriff of the county seeking to re-employ the retired member has fewer than five deputies in his or her employ and has been unable to recruit additional qualified deputy sheriffs despite the exercise of due diligence;

(5) The re-employment of the retired member is for a period not to exceed five years or until such time as the sheriff may recruit additional deputy sheriffs to provide for five full-time deputy sheriffs not hired pursuant to this subsection, whichever is sooner; and the sheriff is required to post the vacancy until it is filled by a non-retirant;

(6) The retired member may not again become a contributing member of the Deputy Sheriff Retirement System while performing services under the provisions of this subsection; and

(7) The employer of any deputy sheriff rehired pursuant to this subsection shall remit an employer contribution pursuant to §7-14D-7 of this code on the deputy sheriff's monthly salary.

(c) Any retired member who is seeking re-employment pursuant to the provisions of this section shall not be subject to the maximum age restriction set forth in §7-14-8 of this code.

(d) Unless acted upon by the Legislature, the provisions of subsections (b) and (c) of this section will sunset on July 1, 2026. On or before October 1, 2025, any employer of a member of the Deputy Sheriff Retirement System rehired pursuant to subsection (b) of this section must make a report to the Joint Standing Committee on Pensions and Retirement.

The bill (Eng. Com. Sub. for H. B. 2900), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3012, To encourage economic development regarding rare earth elements and critical minerals, as defined, by providing temporary severance tax relief.

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

Eng. House Bill 3146, Establishing in West Virginia Code, the contents of the Uniform Public Meetings During Emergencies Act.

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

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

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

ARTICLE 9C. UNIFORM PUBLIC MEETINGS DURING EMERGENCIES ACT.

§6-9C-1. Short title.

This article may be cited as the Public Meetings During Emergencies Act.

§6-9C-2. Definitions.

In this article:

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Emergency" means an event or condition that is an emergency, disaster, or public health emergency as addressed in §15-5-2 and §15-5-6 of this code.

"Emergency declaration" means a declaration of emergency issued by a person or agency authorized to do so under §15-5-6 of this code and that is in effect.

"Meeting" has the same definition as in §6-9A-2 of this code.

"Person" has the same definition as in §6-9A-2 of this code. The term does not include a public corporation, government or governmental subdivision, agency, or instrumentality.

"Public agency" has the same definition as in §6-9A-2 of this code, however, for purposes of this article, it does not include the Legislature.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Virtual meeting" or "virtually" means a meeting of a public agency or any part thereof, at which some or all of the members of the public agency participate wholly or partly by electronic means.

§6-9C-3. Virtual meetings.

(a) A public agency may meet virtually during an emergency that is the subject of an emergency declaration if otherwise permitted by law, or all or part of the jurisdiction of the public agency is subject to the emergency declaration; and the person authorized by law or by rule of the public agency to act for the public agency determines that due to the emergency it would not be practical or prudent for the public agency to meet physically or if the emergency declaration prohibits physical meetings.

(b) If a virtual meeting of a public agency authorized by §6-9C-3(a) of this code complies with the requirements of §6-9C-4, §6-9C-5, and §6-9C-6 of this code, then any action taken at a virtual meeting has the same legal force and effect as an action taken at a physical meeting of the public agency. All other laws of the state that apply to a physical meeting of a public agency shall, to the extent practicable and not inconsistent with a virtual meeting, apply to a virtual meeting of the public agency.

§6-9C-4. Authorization for virtual meeting.

(a) A public agency may conduct a virtual meeting while an emergency declaration is in effect that applies to all or part of the jurisdiction of the public agency if:

(1) The emergency declaration prohibits, limits, or has the effect of prohibiting or limiting an in-person meeting of the public agency; or

(2) The presiding officer of the public agency or other individual authorized to act for the public agency determines it is not practical or prudent for the public agency to conduct an in-person meeting because of the emergency; and

(A) Communicates to the members of the public agency that the meeting shall be a virtual meeting; and

(B) Takes reasonable steps to inform members of the public that the meeting shall be a virtual meeting.

§6-9C-5. Conduct of virtual meeting.

(a) A public agency shall, to the extent practicable, select a means to conduct a virtual meeting that is compatible with assistive technology commonly used by individuals with disabilities and that facilitates the accommodation needs of individuals with disabilities to access the meeting.

(b) Except as provided in §6-9C-5(c) or §6-9C-5(d) of this code, the means used to conduct a virtual meeting shall permit each member of the public agency who attends the meeting to see and hear during the meeting and to be seen and heard by, the other members of the public agency who attend the meeting.

(c) If a member of a public agency is unable to obtain visual access to the virtual meeting but is able to obtain audio access that permits the member, during the meeting, to hear and be heard by the other members of the public agency who attend the meeting, the member may attend by audio access.

(d) If a public agency lacks the capacity to provide contemporaneous visual access to a virtual meeting for members of the public agency, the public agency may conduct the meeting by audio-only access that permits each member of the public agency who attends the meeting, to hear and be heard during the meeting by the other members of the public agency who attend the meeting.

(e) A member of a public agency who attends a virtual meeting is considered present for all purposes, including for determination of a quorum and voting, if during the meeting, the member may:

(1) For a meeting conducted in compliance with §6-9C-5(b) of this code, see and hear and be seen and heard by the other members of the public agency who attend; or

(2) For a meeting conducted in compliance with §6-9C-5(c) or (d) of this code, may hear and be heard by the other members of the public agency who attend.

(f) A member of a public agency who attends a virtual meeting through electronic means that provide audio-only access to the meeting shall state the member's name each time the member speaks. Failure by a member to state the member's name does not invalidate an action taken at the virtual meeting.

(g) A vote taken at a virtual meeting shall be by a process that identifies how each member of the public agency votes.

(h) The minutes of a virtual meeting shall include any vote taken, that the meeting was conducted by electronic means, the technology used, and which members of the public agency attended by electronic means.

§6-9C-6. Public observation.

(a) If the open meetings law requires that the public be able to observe all or part of a meeting of a public agency in real time:

(1) The public agency shall permit the public to observe a virtual meeting or the part of the virtual meeting that would be required to be open to the public if it were part of an in-person meeting; and

(2) The public agency shall provide the technological means to allow the members of the public who observe the virtual meeting to see and hear or, if the public agency conducts the meeting by audio-only access under §6-9C-5(d) of this code, to hear any members of the public authorized by the public agency to speak in the meeting.

(b) A document, exhibit, or other record presented to a public agency at a virtual meeting that, under the open meetings law, would have been available to the public at an in-person meeting, including members of the public observing or participating in a virtual meeting under §6-9C-7 of this code, shall be made available to the public at the same time as the virtual meeting to the extent practicable.

§6-9C-7. Public participation.

(a) If a law of this state or a political subdivision of the state or a rule, practice, or procedure adopted by the public agency requires that members of the public be permitted to participate in a

meeting of the public agency, the public agency to the extent practicable shall permit members of the public to participate in a virtual meeting, subject to the conditions that apply at an in-person meeting of the public agency.

(b) If members of the public are permitted to speak at a virtual meeting, the technology used to conduct the meeting shall permit the members of the public agency and members of the public attending the meeting to hear the members of the public who speak at the meeting.

(c) If a public agency considers at a virtual meeting a matter affecting the right or interest of a person entitled by other law of the state or a political subdivision of this state or by rule of the public agency to participate, present evidence, or examine or cross-examine witnesses at an in-person meeting, the public agency shall permit the person to use the same technology that the public agency uses to conduct the virtual meeting, or provide equivalent access, to attend the meeting and present evidence, or examine or cross-examine witnesses in the meeting.

(d) If a person to which §6-9C-7(c) of this code applies objects that the virtual meeting does not allow the person to effectively protect the right or interest referred to in §6-9C-7(c) of this code, the public agency shall consider the objection and may proceed with the matter at a virtual meeting if the agency determines that the virtual meeting will allow the person to effectively protect the right or interest. The determination and the reason for the determination shall be stated in a record.

§6-9C-8. Notice.

(a) In addition to any other requirement concerning notice, a public agency, for a meeting of the public agency, shall give notice of a virtual meeting and shall specify that the meeting will be a virtual meeting and the technology that will be used for the virtual meeting.

(b) Notice of a virtual meeting shall specify how:

(1) Members of the public may observe the meeting in real time pursuant to §6-9C-6 of this code;

(2) Members of the public permitted to participate, present evidence, or examine or cross-examine witnesses at the meeting pursuant to §6-9C-7 of this code may do so;

(3) A member of the public may alert the public agency of a technical or quality problems that prevents the member from accessing the meeting; and

(4) A member of the public with a disability may request a reasonable accommodation to access the meeting.

§6-9C-9. Procedural rules.

A public agency may adopt rules for conducting a virtual meeting under this article, comparable to rules for conducting an in-person meeting of the public agency. The rules may include:

(1) The means by which the public agency will inform members of the public that a virtual meeting will be held;

(2) The effect of a technical or quality problems that interferes with meeting or access to a meeting by a member of the public agency or the public;

(3) The means by which a record considered at a meeting is made available to the public agency and, if required by other law, the public;

(4) The means for access to a meeting by an individual with a disability; and

(5) The process by which a person may object under §6-9C-7 of this code to the conduct of a meeting on the ground that the procedure denies the person due process of law.

§6-9C-10. Electronic Signatures in Global and National Commerce Act.

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. § 7003(b).

The bill (Eng. H. B. 3146), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3214, To create the Road Optimization & Assessment Data (ROAD) Pilot Project.

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

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

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

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-25. Road optimization and assessment data pilot program; legislative findings and purposes; reporting.

(a) The Legislature hereby finds and declares that:

(1) Properly maintained roads are important to the economic and industrial growth and development of the state and to the health, education, welfare, and prosperity of the state's residents;

(2) Roads that are not well-maintained because of potholes, patching, cracking, road shoulder issues, canopy brush, or drainage issues do not contribute to the health, education, welfare, and prosperity of the residents of this state;

(3) Data is and has been collected by the West Virginia Division of Highways for purposes of an overall assessment and evaluation of road maintenance; and

(4) The purpose of this section is to create a pilot program to study alternative, advanced methods of assessing the conditions of the roads that will lead to improved processes of addressing road maintenance needs.

(b) The Road Optimization and Assessment Data (ROAD) Pilot Program is hereby created. The Commissioner of Highways shall develop and implement the pilot program concerning the collection of data and the overall assessment of the conditions of the paved roads of the state and the repairs and maintenance required to ensure well-maintained roads. The pilot program shall include a combination of urban and rural roads, using Monongalia County and Preston County as the test areas for this pilot program and, to the broadest extent feasible:

(1) Use existing assessments in the pilot counties to teach the program;

(2) Incorporate machine learning (ML), artificial intelligence (AI), or other advanced technologies to assess state roads;

(3) Use Global Positioning System (GPS) data or geotagging, including high accuracy precision GPS, to indicate road geometry and curvature;

(4) Use laser measuring systems, including video, that are capable of longitudinal profiling, identifying and measuring of cracks, pavement distress, potholes, patching, road shoulder issues, canopy brush, and drainage issues;

(5) Use video for road imagery as well as canopy brush and drainage documentation;

(6) Use a reflectometer system to check the reflectivity of painted lines;

(7) Utilize post-data capture processing to create a baseline for road condition assessment based on standards of the Division of Highways and the ASTM D6433-11 Standard Practice for Roads and Parking Lots Pavement Condition Index Surveys; and

(8) Incorporate the data gathered pursuant to this section within the Division of Highways' existing pavement management system, or an alternative machine learning or artificial intelligence system in order to improve predictive analysis of roads and to guide in the performance of preventive maintenance for roads rather than reactive maintenance.

(c) The commissioner shall provide for the data capturing and processing pursuant to this section at intervals determined by the commissioner to adequately collect and assess data for maintenance purposes: *Provided*, That data capturing and processing shall occur at least twice during the pilot project. The data shall compare the changes in road conditions, such as deterioration of roads from previous conditions, average daily traffic, and heavy truck traffic if such information is available.

(d) The term of this pilot program is five years. At the conclusion of year two and year four of the pilot program, and at the conclusion of the pilot program, the commissioner shall report to the Joint Legislative Oversight Commission on Department of Transportation Accountability on the steps taken to implement the pilot program, identify the technologies used in the pilot program, outline the data collected through the pilot program, identify costs of the pilot program, summarize any improvements in road maintenance and pavement management processes that may be realized through the pilot program, and make recommendations concerning improvements to and continuation of the pilot program.

The bill (Eng. Com. Sub. for H. B. 3214), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3261, Relating to Social Workers Qualifications.

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

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

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

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 30. SOCIAL WORKERS.

§30-30-16. PROVISIONAL LICENSE TO PRACTICE AS A SOCIAL WORKER.

(a) To be eligible for a provisional license to practice as a social worker, the applicant must:

(1) Submit an application to the board;

(2) Be at least 18 years of age;

(3) Have a baccalaureate degree in a related field, as provided by legislative rule;

(4) Have obtained regular supervised employment, or the reasonable promise of regular supervised employment, contingent upon receiving a provisional license, in a critical social work workforce shortage position, area, or setting requiring a social work license: *Provided*, That such employment shall not be as an independent practitioner, contracted employee, sole proprietor, consultant, or other nonregular employment;

(5) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(6) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program, may be considered;

(7) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license, which conviction remains unreversed;

(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed; and

(9) Meet any other requirements established by the board.

(b) The board shall promulgate emergency rules, in accordance with §29A-3-15 of this code, to implement the provisions of subsection (a) of this section.

(c) A provisionally licensed social worker may become a licensed social worker by completing the following:

(1) Be continuously employed for four years as a social worker and supervised: *Provided*, That should an individual lose his or her employment due to a reduction in force, or be unable to

work due to medical reasons, the individual may request that the Board allow for a reasonable interruption in continuous employment and provide additional time for the individual to complete the requirements of the provisional license. The board shall promulgate by legislative rule the supervision requirements;

(2) Complete 12 credit hours of core social work study from a program accredited by the council on social work education, as defined by legislative rule, within the four-year provisional license period;

(3) Complete continuing education as required by legislative rule; and

(4) Pass an examination approved by the board.

(d) On or before July 1, 2020, the Legislative Auditor shall cause to be performed a performance audit of the provisional license to practice as a social worker application process and the application process by which a provisional licensee may become a licensed social worker.

(e) Any employee of the Department of Health and Human Resources with a provisional license as of the effective date of this section who opted to take the department-provided courses previously allowed has until June 30, 2022, to convert his or her license to a social work license or provisional license under this section. If the individual cannot or desires not to complete this process, he or she shall be eligible for registration as provided in §30-30-30 of this code.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-110a Bureau of Social Service authority to hire and employ workers who are not social workers in geographical areas of critical shortage.

(a) The Legislature hereby finds that there is a crisis in West Virginia in certain geographical regions of the state, that is caused by an absence of people employed by the Department of Health and Human Resources as child protective services workers, youth case workers, and support staff for these positions.

(b) Notwithstanding any other provisions of this code to the contrary, the Bureau of Social Services, pursuant to the provisions of this section, may employ persons who do not hold a social worker's license and persons who are not on the social work register to work for the bureau as child protective services workers, youth case workers and support staff, in geographical areas of critical shortage of this state.

(c) For purposes of this section "geographical areas of critical shortage" means those regions of West Virginia where the West Virginia Bureau of Social Services has a vacancy rate for child protective services workers, or youth service workers, that exceeds 25% of allocated positions.

(d) Workers hired by the bureau under this section to work in geographical areas of critical shortage may be employed by the bureau and work in said geographical areas as child protective services workers, youth service workers, case managers, clerical staff and in other related positions for the bureau.

(e) The provisions of this section shall operate independently of, and in addition to, any other provisions of law or policy that allow persons to be employed in these jobs, and the provisions of this section do not eliminate any other provisions of law that permit persons to be employed in the jobs described in this section.

(f) In order for a person to be eligible for employment under this section, he or she shall:

(1) Be at least 18 years of age.

(2)(A) Have an associate's degree in social work or a related field from an accredited college, university, community and technical college, community college or junior college; or

(B) Be an honorably retired law enforcement officer or be an honorably retired parole officer or honorably retired federal or state probation officer.

(3) Provide to the bureau three letters of recommendation from persons not related to the applicant.

(4) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the bureau, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program, may be considered;

(5) Satisfy the requirements of the West Virginia Clearance for Access Registry and Employment Screening Act, §30-1-24 of this code.

(C) Meet any other requirements established by the bureau.

(g) The bureau shall provide training to any and all persons hired and employed hereunder, as the bureau deems appropriate.

(h) The provisions of this section authorizing the hiring of persons shall sunset, expire, and be of no force and effect on or after the 31st day of December, 2028, but shall not serve to require the termination of persons hired pursuant to this section.

The bill (Eng. Com. Sub. for H. B. 3261), as amended, was then ordered to third reading.

Eng. House Bill 3328, Authorizing the Hatfield-McCoy Regional Recreation Authority to contract to build and maintain trails on privately owned property.

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

Eng. Com. Sub. for House Bill 3370, Creating loan program for certain properties and developments on U. S. Army Corps of Engineers land, state parks and resorts.

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

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

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

CHAPTER 20. NATURAL RESOURCES.**ARTICLE 5A. STATE PARKS AND RECREATION ENDOWMENT FUND.****§20-5A-1. Establishment of fund; deposits; expenditures; investments; use of fund for the State Parks Enhancement Loan Insurance Program.**

(a) There is created in the office of the State Treasurer a special revenue account fund to be known as the West Virginia State Parks and Recreation Endowment Fund.

(b) The following shall be deposited into the fund:

(1) The royalties received from the leasing of state-owned gas, oil, and other mineral rights beneath the Ohio River and its tributaries; and

(2) The proceeds of any gifts, grants, contributions, or other moneys accruing to the state which are specifically designated for inclusion in the fund.

(c) Expenditures from the fund shall be for the purposes set forth in this section and are to be made in accordance with appropriation of the Legislature under the provisions of §12-3-1 *et seq.* of this code, and in compliance with the provisions of §11B-2-1 *et seq.* of this code: *Provided*, That income accruing from investments of the fund pursuant to this article shall be distributed or expended for either of the following purposes:

(1) Maintenance, repair, and improvement of any existing recreational facilities, including any supporting or related infrastructure and associated recreational features, all to provide uninterrupted enjoyment and public use of state parks, state forests, and state rail trails.

(2) Maintenance, repair, and procurement of any fixture, furnishing, and equipment necessary to provide uninterrupted enjoyment and public use of state parks, state forests, and state rail trails.

(d) The board of trustees established pursuant to this article shall invest the assets of the fund consistent with the provisions of §12-6-1 of this code. The board may accumulate investment income of the fund within the fund until the income, in the sole judgment of the board, can provide a significant supplement to the budget of the Division of Natural Resources. After that time, the board may direct expenditures from the income for the purposes set forth in this section.

(e) Notwithstanding any other provision of this article to the contrary, the assets of the fund may be used by the board of trustees to facilitate or provide collateral for the State Parks Enhancement Loan Insurance Program established in §20-5A-3 of this code: *Provided*, That no amount of the fund's income from investments may be used to provide loan insurance.

§20-5A-3. State Parks Enhancement Loan Insurance Program.

(a) Legislative findings and purpose.

(1) The Legislature finds that certain areas of the state currently have existing developments or attractions, including, but not limited to, developments in West Virginia State Parks and resorts that are constructed on U.S. Army Corps of Engineers property, wherein such attractions and developments are unable to serve as collateral for loans. Because of this, the expansion of tourism and development projects in these areas is severely restricted or significantly impeded.

(2) The purpose of this section is to establish the State Parks Enhancement Loan Insurance Program, which may provide for the guarantee of a loan made to an eligible entity to be used exclusively for further development on these properties to encourage economic development and tourism.

(b) Terms defined. – As used in this section, unless the context clearly indicates otherwise:

(1) Board of trustees means the board provided for in §20-5A-2 of this code.

(2) Development project means any new project, or any project at any existing development or attraction, being pursued by a private entity, which has established a partnership or agreement with the division to operate on U.S. Army Corps of Engineers property, State Parks and resorts property, any other property under the jurisdiction of the division, or on a hybrid tourism destination, for the purpose of increasing recreational opportunities, tourism, and economic development.

(3) Director means the director of the Division of Natural Resources.

(4) Division means the Division of Natural Resources.

(5) Eligible entity means any corporation, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture, or any other entity operating or intending to operate a development project, whether owned or leased, that receives the approval pursuant to this section to apply for an insurance agreement under the State Parks Enhancement Loan Insurance Program.

(6) Program means the State Parks Enhancement Loan Insurance Program.

(c) The State Parks Enhancement Loan Insurance Program is established. The program may insure the payment or repayment of all or any part of the principal of, prepayment premiums or penalties on, and interest on any form of debt instrument entered into by an eligible entity with a financial institution, including, but not limited to, banks, insurance companies and other institutions in the business of lending money. Eligible entities shall submit applications for loan insurance to the board of trustees. By a majority vote, the board of trustees may approve or deny any application. If approved, the board of trustees shall enter into an insurance agreement with the eligible entity and any necessary financial institution.

(d) In order to effectuate the purposes of this section, the board of trustees shall cooperate with the West Virginia Economic Development Authority pursuant to §31-15-8b of this code. The board of trustees may utilize the staff and resources of the authority for guidance and assistance in administering the program.

(e) The board of trustees may, subject to a recommendation by the director, establish additional requirements and procedures for the issuance of loan insurance; including, but not limited to, setting the premiums and fees to be paid to it for providing financial assistance under this section. The premiums and fees set by the board of trustees shall be payable in the amounts, at the time, and in the manner that the board of trustees, in its sole and absolute discretion, requires. The premiums and fees need not be uniform among transactions and may vary in amount: (1) Among transactions; and (2) at different stages during the terms of transactions.

(f) The board of trustees may, in its sole and absolute discretion, require the security it believes sufficient in connection with its insuring of the payment or repayment of any bonds, notes, debt, or other instruments: *Provided*, That the board of trustees may not require a security interest in the real property or permanent improvements which are part of the development project when the eligible entity will not hold ownership on the real or personal property of the development project.

(g) The obligations of the board of trustees under any insurance agreement entered into pursuant to this article shall not constitute a debt or a pledge of the faith and credit or taxing powers of this state, the division, or of any county, municipality, or any political subdivision of this state for the payment of any amount due thereunder or pursuant thereto, but the obligations evidenced by such insurance agreement shall be payable solely from the funds pledged for their payment.

(h) The board of trustees may not authorize any amount of loan insurance through the program that exceeds \$10 million in the aggregate of the assets existing in the West Virginia State Parks and Recreation Endowment Fund: *Provided*, That no more than \$5 million may be authorized for any project: *Provided, however*, That no amount of the fund's income from investments may be used to provide loan insurance. However, any amount of loan insurance issued by the board of trustees shall not require the encumbrance or otherwise segregation of funds within the West Virginia State Parks and Recreation Endowment Fund.

(i) The board of trustees may establish an application and additional procedures or guidelines for the program. Prior to submission of an application to the board of trustees, an eligible entity must receive approval in writing from the Secretary of the Department of Commerce, the Secretary of the Department of Economic Development, and the Secretary of the Department of Tourism.

(j) The West Virginia Department of Commerce shall maintain a list of approved projects using this loan insurance program and shall submit this list to the Joint Committee on Government and Finance in the form of an annual report for legislative review.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-8b. Facilitation of the State Parks Enhancement Loan Insurance Program.

The authority shall cooperate with the Division of Natural Resources and the Board of Trustees of the West Virginia State Parks and Recreation Endowment Fund to facilitate the administration of the State Parks Enhancement Loan Insurance Program established by §20-5A-3 of this code. The executive director shall make the authority's staff available to provide guidance and assistance for the administration of the program. Any requirement or restriction on the authority's loan insurance programs and other operations established by this article shall not be applicable to the administration of the State Parks Enhancement Loan Insurance Program.

The bill (Eng. Com. Sub. for H. B. 3370), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3479, Creating requirements for use of unmanned aerial vehicles.

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

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

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

ARTICLE 16. USE OF UNMANNED AIRCRAFT SYSTEMS AERIAL VEHICLE.

§61-16-1. Definitions.

As used in this article:

(1) "Aircraft" means any device now known or subsequently invented, used, or designed for flight in the air, including, but not limited to, unmanned ~~aircraft vehicles or systems~~ aerial vehicles;

(2) "Targeted facility" means a critical infrastructure facility, as defined in §61-10-34 of this Code.

(3) ~~"Unmanned aircraft system" or "system aerial vehicles"~~ means an aircraft that is operated without direct human intervention from inside or on the aircraft and includes the crewmember, the associated support equipment, the control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft, including, but not limited to, drones;

(3) (4) ~~"Unmanned aircraft system aerial vehicle operator" or "operator"~~ means a person exercising control over an unmanned ~~aircraft system~~ aerial vehicle during flight.

§61-16-2. Prohibited use of an unmanned ~~aircraft system~~ aerial vehicle; criminal penalties.

(a) Except as authorized by the provisions of this article, ~~a person may~~ it is unlawful for any person to not operate an unmanned ~~aircraft system~~ aerial vehicle:

(1) To knowingly and intentionally capture or take photographs, images, video, or audio of another person or the private property of another, without the other person's permission, in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, capturing, or recording through a window;

(2) To knowingly and intentionally view, follow, or contact another person or the private property of another without the other person's permission in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, viewing, following, or contacting through a window;

(3) To knowingly and intentionally harass another person;

(4) To violate a restraining order or similar judicial order;

(5) To act with a willful wanton disregard for the safety of persons or property; or

(6) To knowingly and intentionally operate an unmanned ~~aircraft system~~ aerial vehicle in a manner that interferes with the official duties of law enforcement personnel or emergency medical personnel.

(b) It is unlawful for any person to operate an unmanned aerial vehicle over the property of a targeted facility to:

(A) intentionally deploy any substance, material, projectile, or object,

(B) to conduct surveillance of, or gather evidence and information about such facility, with the intent to do harm to such facility the public or any person, or

(C) to engage in any attempt to obtain:

(i) business trade secrets, proprietary information, or,

(ii) protected Federal or state information for the operator's own use or profit.

(c) Nothing in this section prohibits a person from operating an unmanned aerial vehicle to conduct surveillance of, gather evidence and information about, or photographically or electronically record the person's own property or immovable property owned by another person under a valid lease, servitude, right-of-way, right of use, permit, license, or other right: *Provided*, That nothing in this section prohibits third persons retained by the owner of immovable property from operating an unmanned aerial vehicle over, or to otherwise conduct surveillance of, gather evidence and information about, or to photographically or electronically record the property: *Provided, however*, That nothing in this section prohibits a person from operating an unmanned aerial vehicle in connection with production of a motion picture, television program, or similar production if the operation of the unmanned aerial vehicle is authorized by the property owner.

(d) The provisions of this section do not apply to a law-enforcement agency acting in compliance with the provisions of this article: *Provided*, That a law enforcement agency's operation of an unmanned aerial vehicle for the purpose of surveillance, investigation into crime, or any other purpose related to the enforcement of the criminal laws of this state or those of the United States shall be in accordance with the Fourth Amendment to the United States Constitution and Article III, § 6 of the constitution of this state.

(e) The provisions of this section do not apply to a news organization using a camera-carrying unmanned aerial vehicle at altitudes greater than 400 feet over private property for legitimate newsgathering purposes.

(f) Any person violating the provisions of subsection (a) or (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

~~(e)~~(g) Any person who equips an unmanned ~~aircraft system~~ aerial vehicle with any deadly weapon or operates any unmanned ~~aircraft system~~ aerial vehicle equipped with any deadly weapon, other than for military purposes in an official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

~~(d)~~(h) Any person who operates an unmanned ~~aircraft system~~ aerial vehicle with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 imprisoned for not less than one nor more than five years, or both fined and imprisoned.

~~(e)(i)~~ A person that is authorized by the Federal Aviation Administration to operate unmanned aircraft systems aerial vehicles for commercial purposes may operate an unmanned aircraft system aerial vehicle in this state for such purposes if the unmanned aircraft system aerial vehicle is operated in a manner consistent with federal law.

The bill (Eng. Com. Sub. for H. B. 3479), as amended, was then ordered to third reading.

Eng. House Bill 3499, To permit joint tenancy with rights of survivorship when transfer on death deeds specify a joint tenancy with right of survivorship.

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

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

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

ARTICLE 12. UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT.

§36-12-11. Revocation by instrument authorized; revocation by act not permitted.

(a) Subject to subsection (b) of this section, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, ~~only~~ if the instrument:

(1) Is one of the following:

(A) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;

(B) An instrument of revocation that expressly revokes the deed or part of the deed; or

(C) ~~An *inter vivos* deed that expressly revokes the transfer on death deed or part of the deed~~ As to property that was described in a transfer on death deed made by a transferor and previously recorded, an *inter vivos* deed made by the same transferor that conveys the same real estate, or part thereof, whether or not the *inter vivos* deed expressly revokes the transfer on death deed, or part of the deed; and

(2) Is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded before the transferor's death in the public records in the office of the clerk of the county commission of the county where the deed is recorded.

(b) If a transfer on death deed is made by more than one transferor ~~(1) Revocation~~ revocation by a transferor does not affect the deed as to the interest of another transferor; and ~~(2) A~~ a deed of joint owners is revoked only if it is revoked by all of the living joint owners.

(c) After a transfer on death deed is recorded it may not be revoked by a revocatory act on the deed.

(d) This section does not limit the effect of an *inter vivos* transfer of the property.

36-12-13. Effect of transfer on death deed at transferor's death

(a) Except as otherwise provided in the transfer on death deed in this article, ~~section six, article one, chapter forty one of this code §41-1-6 of this code, section three, article three, chapter forty one of this code §41-3-3 of this code, article three, chapter forty two of this code §42-3-1, et seq. of this code, section two, article four, chapter forty two of this code §42-§4-2 of this code, or article five, chapter forty two of this code §42-5-1, et seq. of this code,~~ on the death of the transferor the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:

(1) Subject to subdivision (2) of this subsection, the interest in the property is transferred to the designated beneficiary in accordance with the deed.

(2) The interest of a designated beneficiary, when there is only one beneficiary designated, is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor, when there is only one beneficiary designated, lapses.

(3) Subject to subdivision (4) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship, unless the deed specifies otherwise, as tenants in common or with right of survivorship if the deed specifies joint tenancy with right of survivorship.

(4) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently as tenants in common or with right of survivorship if the deed specifies joint tenancy with the right of survivorship.

(b) Subject to ~~article two, chapter thirty nine and chapter thirty eight of this code §39-2-1, et seq., and §38-1-1, et seq. of this code,~~ a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens and other interests to which the property is subject at the transferor's death. For purposes of this subsection, ~~article two, chapter thirty nine and chapter thirty eight of this code, §39-2-1, et seq. and §38-1-1, et seq. of this code,~~ the recording of the transfer on death deed is deemed to have occurred at the transferor's death.

(c) If a transferor is a joint owner with other joint owners with right of survivorship and is:

(1) Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(2) The last surviving joint owner, the transfer on death deed is effective.

(d) If a transferor is an owner with other owners as tenants in common, the transfer on death deed is only effective as to the interest in the property which was held by the transferor.

(e) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

(f) The amendments to this section, enacted during the 2023 regular session of the Legislature, shall apply only to transfer on death deeds recorded after the effective date of this section.

The bill (Eng. H. B. 3499), as amended, was then ordered to third reading.

Eng. House Bill 3500, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office.

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

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

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

ARTICLE 4. REGULATED CONSUMER LENDERS.

§46A-4-114. Permitting licensee to conduct business at remote location.

(a) Notwithstanding any provision of this article to the contrary, but subject to the requirements of this section, employees of a West Virginia licensee located in West Virginia may perform work for the licensee at their residence: *Provided*, That such a residence is located within 100 miles of a licensed West Virginia corporation or branch office: *Provided, however*, That nothing in this subsection restricts employees of the licensee from participating in regulated consumer lending activities at other locations for limited periods of time. Any regulated consumer lender activity conducted by an employee of the West Virginia licensee shall be considered, reported, and regulated as loans of the West Virginia licensee, regardless of the employee's location during the activity.

(b) A licensee, prior to authorizing work by employees at a location other than the licensee's designated place of business, shall ensure the following:

(1) No in-person customer interactions will be conducted at the other location;

(2) The other location is not designated as a business location to consumers or customers;

(3) Appropriate data security and privacy safeguards are in place for licensee and consumer data, information, and records at the other location, including, but not limited to, the use and maintenance of secure virtual private networks and maintenance of appropriate security updates, patches, or other alterations to ensure the security of electronic devices;

(4) Appropriate risk-based monitoring and oversight processes of work performed by the employees of a licensee at the other location are in place, and records of such monitoring and processes are maintained;

(5) No consumer information or records are maintained at the other location;

(6) All consumer and licensee information and records remain accessible and available for regulatory oversight and examinations;

(7) Employees are trained and keep confidential all conversations about, and with, consumers that may be conducted at the other location; and

(8) The other location is a safe and secure workplace for employees.

(c) A licensee, prior to authorizing work at a location other than the licensee's designated place of business, shall establish written policies and procedures to ensure compliance with the requirements of subsection (b) of this section.

(d) A licensee that authorizes work at another location pursuant to this section shall:

(1) Periodically review and document compliance with the provisions of this section and the written policies and procedures established pursuant to subsection (c) of this section as it relates to every employee who works at another location; and

(2) Certify annually to the commissioner that the provisions of this section have been met as to each employee working at another location.

The bill (Eng. H. B. 3500), as amended, was then ordered to third reading.

Eng. House Bill 3510, Making a supplementary appropriation to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund.

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

Eng. House Bill 3511, Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program.

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

Eng. House Bill 3529, Making a supplementary appropriation to the Department of Commerce, State Board of Rehabilitation – Division of Rehabilitation Services.

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

The Senate proceeded to the tenth order of business.

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

Eng. Com. Sub. for House Bill 2005, Establishing the dual enrollment pilot program to be administered by the Higher Education Policy Commission and the Council for Community and Technical College Education in conjunction with the State Board of Education.

Eng. House Bill 2955, Relating to the establishment and operation of regional water, wastewater and stormwater authorities.

Eng. Com. Sub. for House Bill 3036, Increasing the number of districts and the limit on approved costs under the BUILD WV Act.

Eng. Com. Sub. for House Bill 3271, Relating to increasing monitoring of special education classrooms.

Eng. Com. Sub. for House Bill 3344, To pay certain moral obligations of the state.

Eng. House Bill 3371, Relating to federal funds for land-grant institutions.

Eng. House Bill 3512, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

Eng. House Bill 3514, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund.

Eng. House Bill 3516, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment.

Eng. House Bill 3517, Making a supplementary appropriation to the Division of Human Services – Child Care and Development.

And,

Eng. House Bill 3557, Making a supplementary appropriation to the Department of Veterans' Assistance.

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

Eng. Com. Sub. for House Bill 2380, Relating to School Building Authority.

On third reading, coming up in deferred order, with the unreported Education committee amendment pending, and with the right having been granted on yesterday, Monday, March 6, 2023, for further amendments to be received on third reading, was read a third time.

At the request of Senator Grady, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the bill was withdrawn.

Engrossed Committee Substitute for House Bill 2380 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Trump, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Taylor—1.

Absent: Jeffries, Phillips, and Weld—3.

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. 2380) passed.

At the request of Senator Grady, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the title of the bill was withdrawn.

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

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 amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 449, Updating terms for Natural Resources Police Officers Retirement System and retirement systems for charter schools.

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

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

On page 6, section 3, line 4, by striking "§16-5-1" and inserting in lieu thereof "§16-5V-1".

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

Engrossed Senate Bill 449, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: None.

Absent: Jeffries, Phillips, Stover, and Weld—4.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 449) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 450, Defining medical examination for disability purposes in retirement plans administered by Consolidated Public Retirement Board.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page 49, section 25, line 40, by striking "§18-17A-28" and inserting in lieu thereof "§18-7A-28";

And, on page 49, section 25, line 41, by striking "§18-17A-28" and inserting in lieu thereof "§18-7A-28".

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

Engrossed Committee Substitute for Senate Bill 450, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 450) passed with its title.

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

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect July 1, 2023, and requested the concurrence of the Senate in the changed effective date, as to

Eng. Com. Sub. for Senate Bill 475, Modifying examinations for disability pensions.

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

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect July 1, 2023, instead of ninety days from passage.

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

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 475) takes effect July 1, 2023.

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

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

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

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page 1, by line 1, by striking, "the Bureau of Public Health in the Department of Health and Human Resources."; and inserting in lieu thereof, "the department.";

On page 1, line 8, after the word, "Examiner" by inserting a period;

On page 1, line 15, by striking the word, "commissioner" and inserting the word, "secretary";

On page 2, line 24, by striking subsection (f) in its entirety; and inserting in lieu thereof a new subsection (f) to read as follows:

"(f) The Chief Medical Examiner shall cooperate with procurement organizations as defined in §16-19-3 of this code to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education. ~~The Chief Medical Examiner may enter into contracts and agreements with a procurement organization when necessary to~~ To facilitate the efficient and economical recovery of anatomical gifts, the Chief Medical Examiner, including contracts or agreements shall authorize the presence of persons approved or assigned by the procurement organization to perform a specific type of duty or duties at the office of the chief medical examiner Chief Medical Examiner necessary to the timely recovery of anatomical gifts including access to records or information provided by the administrative director of the Office of the Chief Medical Examiner being provided with necessary to identify a potential donor, evaluate donor eligibility, and obtain authorization for recovery, but not including records or information that directly conflict with investigations conducted pursuant to §61-12-8 of this code. This position shall be grant funded and provided at no cost to the state. The procurement organization is liable for all costs related to the placement of persons authorized by this subsection and the Chief Medical Examiner's liability for payment of services is zero.";

And,

On page 2, line 35, by striking the words, "of the Department of Health and Human Resources".

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

Engrossed Senate Bill 605, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio,

Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 605) 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, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Jeffries and Phillips—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 605) takes effect from passage.

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

Executive Communications

The following communication from His Excellency, the Governor, was reported by the Clerk:



Jim Justice
Governor of West Virginia

March 7, 2023

SENATE EXECUTIVE MESSAGE NO. 3
2023 REGULAR SESSION

The Honorable Craig Blair
President, West Virginia Senate
Building 1, Room M-229
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear President Blair:

The following amends and replaces the "General Revenue Fund – Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on March 1, 2023 as part of my Budget Document for the fiscal year ending June 30, 2024:

General Revenue Fund
Statement of Revenues, Expenditures, and Changes in Cash Balance
(Nearest Dollar)

Actual Beginning Cash Balance July 1, 2022	\$ 1,994,018,233
Less: 31 Day Disbursements (July 1, 2022 - July 31, 2022)	(52,861,583)
Plus: Prior Year Reimbursements (July 1, 2022 - July 31, 2022)	137,305
Less: Prior Year Appropriations Forwarded	(597,407,798)
Less: Cash Balance - Adjustments and Accruals	<u>(451,758)</u>
Accumulated Surplus from FY 2022 @ July 31, 2022	\$1,343,434,399
Less: Transfer to Revenue Shortfall Reserve Fund (Statutory)	\$ <u>0</u>
Less: FY 2023 Surplus Appropriations (FY 2022 Surplus) (Senate Bill 250) 2022 Regular Session	(793,370,787)
Less: FY 2023 Surplus Supplemental Appropriation to the Division of Highways (SB 4002) (2022 4th EX)	(150,000,000)

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OFFICE OF THE GOVERNOR

The Honorable Craig Blair
 SENATE EXECUTIVE MESSAGE NO. 3
 2023 REGULAR SESSION
 Page 2

March 7, 2023

Plus: Prior Year Reimbursements (August 1, 2022 – February 27, 2023)	36,566	
Plus: Recommended FY 2023 Surplus Supplemental Appropriation - Expiration of State Excess Lottery Funds to General Revenue Surplus Balance (2023 Regular Session)	30,500,000	
Plus: Recommended FY 2023 Surplus Supplemental Appropriation – Expiration of Lottery Funds to General Revenue Surplus Balance (2023 Regular Session)	21,550,000	
Less: FY 2023 Recommended Various Surplus Supplemental Appropriations (2023 Regular Session)	<u>(451,810,251)</u>	
Unappropriated Surplus Balance @ December 31, 2022		\$339,927
Plus: FY 2023 Revenue Estimate <i>(as revised)</i>	\$4,636,024,000	
Less: FY 2023 Appropriations (FY 2023 Budget Bill) (SB 250) (2023 Regular Session)	(4,635,701,389)	
Plus: FY 2023 Recommended Supplemental Appropriation (Education) (School Aid Formula) (2023 Regular Session)	4,559,900	
Less: FY 2023 Recommended Supplemental Appropriation Various Supplemental Appropriations (2023 Regular Session)	<u>(4,681,766)</u>	
Total Estimated Unappropriated Balance @ June 30, 2023		\$200,745
Plus: FY 2024 Revenue Estimate <i>(as revised 3/7/2023)</i>	\$4,884,000,000	
FY 2024 Appropriations (FY 2024 Budget Bill) (2023 Regular Session)	<u>(4,883,768,346)</u>	
Total Estimated Unappropriated Balance @ June 30, 2024		<u>\$231,654</u>
		<u>\$772,326</u>

Thank you for your cooperation in this matter.

Sincerely,

 Jim Justice
 Governor

In compliance with Article VI, Section 51 of the Constitution, the Senate consented to receive the foregoing amendment to the Budget Bill, which was referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

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 Concurrent Resolution 23 (originating in the Committee on Health and Human Resources)—Requesting the Bureau for Medical Services to propose and initiate a study to determine the impact of public benefit income eligibility guidelines on direct care workforce participation and mitigation strategies to encourage the greatest direct care workforce participation possible (Direct Care Workforce Benefit Cliff Study).

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

Respectfully submitted,

Michael J. Maroney,
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

Eng. Com. Sub. for House Bill 2016, Relating to confidential childcare records.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2016) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2218, Distracted Driving Act.

With amendments from the Committee on Transportation & Infrastructure pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2218) contained in the preceding report from the Committee on the Judiciary 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. Com. Sub. for House Bill 2346, Declaring a shortage of qualified bus operators and allowing retired bus operators to accept employment.

Eng. Com. Sub. for House Bill 2821, Relating to taxation of gambling and lottery winnings.

And,

Eng. Com. Sub. for House Bill 3168, Ensuring investment in WV Tourism is competitive with other states and accessible long term.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 2346, 2821, and 3168) contained in the preceding report from the Committee on Finance were each taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Woodrum, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2515, Require agencies to develop and maintain an inventory of available services for single parents wanting to obtain degrees, secure training or reenter the workforce.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on Government Organization on March 6, 2023;

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2515) contained in the preceding report from the Committee on Government Organization 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 unreported Government Organization committee amendment pending and the right for further amendments to be considered on that reading.

Senator Woodrum, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 2768, To require all state entities and Chapter 30 boards to use ".gov" domains and e-mail addresses.

And has amended same.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for H. B. 2768) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Government Organization pending.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Eng. Com. Sub. for House Bill 2814, To create a Hydrogen power task force.

And has amended same.

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

Respectfully submitted,

Randy E. Smith,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2814) contained in the preceding report from the Committee on Energy, Industry and Mining was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Rules has had under consideration

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

With an amendment from the Committee on School Choice pending;

And has also amended same.

Now on second reading, having been referred to the Committee on Rules on February 25, 2023;

And reports the same back with the recommendation that it do pass as last amended by the Committee on Rules.

Respectfully submitted,

Craig Blair,
Chair ex officio.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2820) contained in the preceding report from the Committee on Rules 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 unreported committee amendments pending and the right for further amendments to be considered on that reading.

Senator Woodrum, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2865, To clarify that the PSC may enter an order requiring corrective measures up to and including an acquisition of a distressed or failing utility.

And has amended same.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2865) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2875, Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home study performed by the DHHR.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2875) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2890, Modifying student discipline.

And has amended same.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2890) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2989, Relating to increasing the number of out-of-state medical students receiving in-state tuition rates who agree to practice for a specific time within West Virginia.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2989) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 3035, Relating generally to high-quality education programs and school operations.

And has amended same.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3035) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Education pending.

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

Eng. Com. Sub. for House Bill 3077, Relating to making the use of the multi-state real time tracking system permanent.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3077) contained in the preceding report from the Committee on Health and Human Resources 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. Com. Sub. for House Bill 3084, Relating to revising provisions related to public charter schools.

And has amended same.

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. 3084) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Woodrum, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3092, Relating to in-state food service permit reciprocity.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

At the further request of Senator Takubo, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 3092) 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. Com. Sub. for House Bill 3110, Relating to funding the Office of Oil and Gas in the Department of Environmental Protection.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Woodrum, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3130, Creating the Coalfields Energy Research and Economic Development Authority.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3130) contained in the preceding report from the Committee on Government Organization 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. Com. Sub. for House Bill 3153, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 3156, Raising the compensation rates of panel attorneys.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3156) 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, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on the Judiciary pending.

Senator Woodrum, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3189, The PFAS Protection Act.

And has amended same.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3189) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Eng. Com. Sub. for House Bill 3191, Relating to certain facilities operated by the state government to obtain a license.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3191) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 3224, Adding West Virginia Junior College to the list of eligible institutions that accept PROMISE scholarship recipients.

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

Respectfully submitted,

Amy N. Grady,
Chair.

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

At the further request of Senator Takubo, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 3224) 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. Com. Sub. for House Bill 3233, Relating generally to uniform and equipment allowances for the National Guard.

With an amendment from the Committee on Military pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 6, 2023;

And reports the same back with the recommendation that it do pass as amended by the Committee on Military to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3233) 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 unreported Military committee amendment pending and the right for further amendments to be considered on that 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 3299, Relating to Natural Resource Police Officer Retirement.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 6, 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. 3299) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a second, and ordered to third reading.

Senator Woodrum, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3313, Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute.

And has amended same.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3313) contained in the preceding report from the Committee on Government Organization 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. Com. Sub. for House Bill 3315, Relating generally to readiness enhancement and commission bonuses.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 3369, Creating a School Safety Unit within the Division of Protective Services.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Grady, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3369) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading, and then referred to the Committee on Finance.

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

Your Committee on Education has had under consideration

Eng. House Bill 3417, Including Potomac State College in the definition of community and technical college education program for participation in the "Learn and Earn Program".

And reports the same back with the recommendation that it do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Grady, unanimous consent being granted, the bill (Eng. H. B. 3417) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading, and then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 3432, Relating to statutory construction.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Education has had under consideration

Eng. House Bill 3441, Revising the training requirements for members of the Higher Education Policy Commission, Council for Community and Technical College Education and the institutional governing boards.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3441) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

Eng. House Bill 3555, Relating to student purchase and refunds of course material.

And has amended same.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3555) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 3559, Relating to defining a newborn safety device.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3559) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Com. Sub. for House Concurrent Resolution 2, U. S. Army Cpl. Billy F. Mann Memorial Bridge.

House Concurrent Resolution 4, U. S. Army MSG Jon D. Wayt Memorial Bridge.

House Concurrent Resolution 9, U. S. Army PFC Walter C. Horner Memorial Bridge.

House Concurrent Resolution 21, Michael Lee "Rube" Ruben Memorial Bridge.

House Concurrent Resolution 22, U.S. Army T/5 Doyle Bedell Taylor Memorial Bridge.

House Concurrent Resolution 24, U. S. Army PFC Herman H. Lucas Memorial Bridge.

House Concurrent Resolution 25, U. S. Marine Corps, PFC John Louis "Johnny" Brumbaugh, Jr. Memorial Bridge.

House Concurrent Resolution 26, U.S. Army SGT Samuel D. Roberts Sr. Memorial Bridge.

House Concurrent Resolution 40, USMC Corporal Larry Allen "Crocky" Holstein, Jr. Memorial Bridge.

House Concurrent Resolution 47, U. S. Army SGT Walter Hedrick Memorial Bridge.

And,

House Concurrent Resolution 49, U. S. Army 1SG Elmer C. Lofton Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (Com. Sub. for H. C. R. 2 and H. C. R. 4, 9, 21, 22, 24, 25, 26, 40, 47, and 49) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

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

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

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

House Concurrent Resolution 10, Shelby "Cubby" Foster and Robert "Robbie" Collins Memorial Road.

And has amended same.

House Concurrent Resolution 23, U.S. Army SGT Theron Turner Memorial Bridge.

And has amended same.

And,

House Concurrent Resolution 42, U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge.

And has amended same.

And reports the same back with the recommendation that they each be adopted, as amended.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (H. C. R. 10, 23, and 42) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The following amendments to the resolutions, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

House Concurrent Resolution 10, Shelby "Cubby" Foster and Robert "Robbie" Collins Memorial Road.

On page 2, in the Resolved clause, lines 34 through 35, by striking out the words "Shelby 'Cubby' Foster and Robert 'Robbie'" and inserting in lieu thereof the words "U.S. Army PFC Shelby "Cubby" Foster and U.S. Army Sgt. Robert "Robbie"";

On page 2, in the first Further Resolved clause, line 37, by striking out the words "Shelby 'Cubby' Foster and Robert 'Robbie'" and inserting in lieu thereof the words "U.S. Army PFC Shelby "Cubby" Foster and U.S. Army Sgt. Robert "Robbie"";

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name a portion of Cabin Creek Road, County Route 79/3, beginning immediately east of the intersection of Cabin Creek Road and Nevada Street at Ohley and ending immediately north of the intersection of Cabin Creek Road and Eskdale Avenue at Eskdale in Kanawha County as the "U.S. Army PFC Shelby "Cubby" Foster and U.S. Army Sgt. Robert "Robbie" Collins Memorial Road".

House Concurrent Resolution 23, U.S. Army SGT Theron Turner Memorial Bridge.

On page 1, in the third Whereas clause, lines 12 through 13, by striking out the words "when he became disabled. He suffered from blindness, diabetes, and kidney failure due to Agent Orange exposure while in Vietnam";

And,

On page 1, in the fifth Whereas clause, line 17, by striking out the words "lost his battle with diabetes" and inserting in lieu thereof the words "passed away".

House Concurrent Resolution 42, U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge.

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

Whereas, William Joseph Thompson was born March 12, 1971, in Baltimore; Maryland, the son of Marvin Thompson and Violet Thompson (both now deceased); he was the baby of eight siblings: Lisa Abernethy, Phillip Thompson, Samantha Blankenship, Steve Thompson, Jeff Thompson, Glynn Thompson, Cassie Wilkinson, and step sister Carol McGinn; he grew up in Princeton, West Virginia, since the age of two; and

Whereas, William Joseph Thompson attended Princeton Senior High School and graduated in 1989; he loved playing Tiger football and running track; and

Whereas, U.S. Army SSG William Joseph enlisted in the West Virginia Army National Guard and decided he liked military life, following in the footsteps of many in his family, and joined the army as an active duty soldier in 1989, where he became a combat medic; and

Whereas, U.S. Army SSG William Joseph Thompson was stationed many places throughout the country, was deployed two years in Germany, and had two deployments to Iraq; he served eight years active duty then returned to Princeton and again joined the West Virginia Army National Guard with the 1/150 ARS HHT in Brushfork; he began working at Princeton Community Hospital as a nursing assistant and later became an LPN, working in the telemetry unit; and

Whereas, U.S. Army SSG William Joseph Thompson met Suzanne Thompson at PCH, in 1998; they married in 2001 and had a son, Ethan Thompson, in 2003 and a daughter, Ava Thompson, in 2007; and

Whereas, U.S. Army SSG William Joseph Thompson was deployed to Iraq to serve in Operation Iraqi Freedom in 2003; he returned home to Princeton in 2005 and began pursuing his RN degree at Bluefield State College; after completing one year, he was deployed to Iraq again in 2009; and

Whereas, During this second deployment to Iraq, U.S. Army SSG William Joseph Thompson was stationed at Camp Stryker, near the Baghdad airport. He returned to Fort Stewart, Georgia, in 2010, with respiratory problems;

Whereas, U.S. Army SSG William Joseph Thompson was medically retired from the military on October 27, 2012, with 23 years of service; and

Whereas, U.S. Army SSG William Joseph Thompson advocated for other soldiers who had been exposed to burn pits during their deployment to Iraq and Afghanistan and testified in front

of the United States Congress and United States Committee on Veterans Affairs; he shared his story with CBS Evening news and NBC Nightly news, helping to get the word out about toxic exposures; he played a pivotal role in fighting for federal legislation in what is now called the PACT Act that was passed August 10,2022; and

Whereas, U.S. Army SSG William Joseph Thompson passed away December 15,2021; and

Whereas, U.S. Army SSG William Joseph "Will" Thompson was a bright light in this world he was a man of God and praised Him through the good times and the bad. His continued faith was an inspiration to many; he loved to make people laugh, he loved to dance, sing and have fun; he was selfless, always thinking of those in need; he was a patriot and loved serving his country and loved the American flag, saluting the one in his yard every day; he was grateful for each day that was given to him as he knew how short and precious life could be; he was thankful for his two organ donors that gave him the gift of life; he was a wonderful husband, father, brother, son, combat medic, nurse and a true hero; and

Whereas, U.S. Army SSG William Joseph Thompson was awarded many military awards including the Expert Field Medical Badge from Germany, several Army Achievement medals, the Meritorious Service Medal, the Army Commendation Medal, National Defense Service Medal, Global War on Terrorism, Expeditionary medal, the Good Conduct Medal, and the German Armed Forces Badge of Marksmanship; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army SSG William Joseph Thompson and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Numbers: 28-077/00-010.89 (NB & SB) (28A200, 28A201), (37.38675, -81.05430) locally known as I-77 NB & SB OVER WV 20, carrying I-77 over County Route 20 in Mercer County, the "U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.;

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

Requesting the Division of Highways name Bridge Numbers: 28-077/00-010.89 (NB & SB) (28A200, 28A201), (37.38675, -81.05430) locally known as I-77 NB & SB WV 20, carrying I-77 over County Route 20 in Mercer County, the "U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge".

The question being on the adoption of the resolutions (H. C. R. 10, 23, and 42), as amended, the same was put and prevailed.

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

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

House Concurrent Resolution 34, William N. "Shug" Kisner Memorial Bridge.

House Concurrent Resolution 54, U.S. Army PFC Russell Richard Ferguson Memorial Bridge.

House Concurrent Resolution 58, U. S. Army SSG Steven "Todd" Shay Memorial Bridge.

And,

House Concurrent Resolution 62, U.S. Army PFC Clayton Collins Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (H. C. R. 34, 54, 58, and 62) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

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

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Maroney, unanimous consent being granted, it was ordered that the Journal show had Senator Maroney been present in the chamber on yesterday, March 6, 2023, he would have voted "yea" on the passage of Engrossed Committee Substitute for Senate Bill 490 and Engrossed Committee Substitute for Senate Bill 526.

The following communications were reported by the Clerk:

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



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

March 7, 2023

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

Dear Governor Justice,

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

Com. Sub for Com. Sub for S. B. 268 - Relating to PEIA.

And

Com. Sub. for S. B. 423 - Increasing salary for certain state employees.

These bills are presented to you on this day, March 7, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lee Cassis".

Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



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

March 7, 2023

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

Dear Governor Justice,

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

S. B. 609 - Obtaining approval for decommissioning or deconstructing of existing power plant.

This bill is presented to you on this day, March 7, 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lee Cassis".

Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

*West Virginia House of Delegates*

OFFICE OF THE CLERK
BUILDING 1, SUITE 212
1900 KANAWHA BLVD., EAST
CHARLESTON 25305

STEPHEN J. HARRISON
CLERK OF THE HOUSE

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

March 7, 2023

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

Dear Governor Justice,

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

Com. Sub. for H. B. 2526, Relating to reducing the personal income tax;

Com. Sub. for H. B. 2587, To reflect that County Sheriffs will be required to include a breakdown of the distribution of where a citizen's taxes will be paid;

And,

H. B. 2611, To remove certain territorial limitations on a banking institution's ability to offer messenger services or mobile banking facilities.

These bills are presented to you on this day, March 7, 2023.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

**West Virginia House of Delegates**

OFFICE OF THE CLERK
BUILDING 1, SUITE 212
1900 KANAWHA BLVD., EAST
CHARLESTON 25305

STEPHEN J. HARRISON
CLERK OF THE HOUSE

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

March 7, 2023

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

Dear Governor Justice,

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

H. B. 2899, Repealing two sections of code relating to gas utility rates;

Com. Sub. for H. B. 3210, Relating to the performance of installation of propane gas systems;

And,

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

These bills are presented to you on this day, March 7, 2023.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steve Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

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

On motion of Senator Takubo, at 5:52 p.m., the Senate adjourned until tomorrow, Wednesday, March 8, 2023, at 11 a.m.

SENATE CALENDAR

**Wednesday, March 08, 2023
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 23 - Requesting study on impact of public benefit income eligibility guidelines on direct care workforce participation

S. R. 47 - Recognizing March as American Red Cross month

THIRD READING

Eng. Com. Sub. for H. B. 2002 - Relating to providing support for families

Eng. Com. Sub. for H. B. 2004 - Prevent the use of payment card processing systems for surveillance of Second Amendment activity and discriminatory conduct - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2026 - Authorizing municipalities with police or firefighter employees in PERS to elect to become participating employer in Municipal Police Officer and Firefighter Retirement System for a limited time - (With right to amend)

Eng. H. B. 2283 - Relating to authorized expenditures of revenues from certain state funds for fire departments

Eng. Com. Sub. for H. B. 2509 - Creating the Uniform Premarital Agreement Act - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2515 - Require agencies to develop and maintain an inventory of available services for single parents wanting to obtain degrees, secure training or reenter the workforce - (Com. amend. and title amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 2540 - Travel Insurance Model Act - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2759 - Relating to updating the health care provider tax

Eng. Com. Sub. for H. B. 2820 - To provide HOPE Scholarship recipients with the ability to play sports - (Com. amend. and title amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 2900 - Relating to the Deputy Sheriff Retirement System - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 3012 - To encourage economic development regarding rare earth elements and critical minerals, as defined, by providing temporary severance tax relief

Eng. H. B. 3146 - Establishing in West Virginia Code, the contents of the Uniform Public Meetings During Emergencies Act

Eng. Com. Sub. for H. B. 3214 - To create the Road Optimization & Assessment Data (ROAD) Pilot Project - (Com. title amend. pending)

- Eng. Com. Sub. for H. B. 3233 - Relating generally to uniform and equipment allowances for the National Guard - (Com. amend. pending) - (With right to amend) (original similar to HB3452)
- Eng. Com. Sub. for H. B. 3261 - Relating to Social Workers Qualifications
- Eng. H. B. 3299 - Relating to Natural Resource Police Officer Retirement
- Eng. H. B. 3328 - Authorizing the Hatfield-McCoy Regional Recreation Authority to contract to build and maintain trails on privately owned property
- Eng. Com. Sub. for H. B. 3370 - Creating loan program for certain properties and developments on U. S. Army Corps of Engineers land, state parks and resorts - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 3479 - Creating requirements for use of unmanned aerial vehicles - (Com. title amend. pending)
- Eng. H. B. 3499 - To permit joint tenancy with rights of survivorship when transfer on death deeds specify a joint tenancy with right of survivorship - (Com. title amend. pending)
- Eng. H. B. 3500 - Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office - (Com. title amend. pending)
- Eng. H. B. 3510 - Making a supplementary appropriation to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund (original similar to SB712)
- Eng. H. B. 3511 - Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program (original similar to SB708)
- Eng. H. B. 3529 - Making a supplementary appropriation to the Department of Commerce, State Board of Rehabilitation – Division of Rehabilitation Services (original similar to SB722)

SECOND READING

- Eng. Com. Sub. for H. B. 2005 - Establishing the dual enrollment pilot program to be administered by the Higher Education Policy Commission and the Council for Community and Technical College Education in conjunction with the State Board of Education. (original similar to SB518)
- Eng. Com. Sub. for H. B. 2016 - Relating to confidential childcare records - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2024 - Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution
- Eng. Com. Sub. for H. B. 2218 - Distracted Driving Act - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2346 - Declaring a shortage of qualified bus operators and allowing retired bus operators to accept employment

Eng. Com. Sub. for H. B. 2814 - To create a Hydrogen power task force - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2821 - Relating to taxation of gambling and lottery winnings (original similar to HB2377, HB2808, SB483)

Eng. Com. Sub. for H. B. 2865 - To clarify that the PSC may enter an order requiring corrective measures up to and including an acquisition of a distressed or failing utility - (Com. amend. and title amend. pending)

Eng. H. B. 2875 - Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home study performed by the DHHR - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2890 - Modifying student discipline - (Com. amend. and title amend. pending)

Eng. H. B. 2955 - Relating to the establishment and operation of regional water, wastewater and stormwater authorities

Eng. Com. Sub. for H. B. 3036 - Increasing the number of districts and the limit on approved costs under the BUILD WV Act (original similar to SB713)

Eng. Com. Sub. for H. B. 3077 - Relating to making the use of the multi-state real time tracking system permanent

Eng. Com. Sub. for H. B. 3084 - Relating to revising provisions related to public charter schools - (Com. amends. pending)

Eng. Com. Sub. for H. B. 3092 - Relating to in-state food service permit reciprocity

Eng. Com. Sub. for H. B. 3130 - Creating the Coalfields Energy Research and Economic Development Authority

Eng. Com. Sub. for H. B. 3168 - Ensuring investment in WV Tourism is competitive with other states and accessible long term

Eng. Com. Sub. for H. B. 3189 - The PFAS Protection Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3191 - Relating to certain facilities operated by the state government to obtain a license - (Com. amend. pending)

Eng. Com. Sub. for H. B. 3224 - Adding West Virginia Junior College to the list of eligible institutions that accept PROMISE scholarship recipients

Eng. Com. Sub. for H. B. 3271 - Relating to increasing monitoring of special education classrooms

Eng. Com. Sub. for H. B. 3313 - Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3344 - To pay certain moral obligations of the state

Eng. H. B. 3371 - Relating to federal funds for land-grant institutions

- Eng. H. B. 3441 - Revising the training requirements for members of the Higher Education Policy Commission, Council for Community and Technical College Education and the institutional governing boards
- Eng. H. B. 3512 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services (original similar to SB724)
- Eng. H. B. 3514 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund (original similar to SB715)
- Eng. H. B. 3516 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment (original similar to SB717)
- Eng. H. B. 3517 - Making a supplementary appropriation to the Division of Human Services – Child Care and Development (original similar to SB718)
- Eng. H. B. 3555 - Relating to student purchase and refunds of course material - (Com. amends. and title amend. pending)
- Eng. H. B. 3557 - Making a supplementary appropriation to the Department of Veterans' Assistance
- Eng. H. B. 3559 - Relating to defining a newborn safety device - (Com. amend. and title amend. pending)

FIRST READING

- Eng. Com. Sub. for H. B. 2911 - Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services (original similar to SB507)
- Eng. Com. Sub. for H. B. 3110 - Relating to funding the Office of Oil and Gas in the Department of Environmental Protection - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 3153 - Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers. - (Com. amend. and title amend. pending) (original similar to HB3266)
- Eng. Com. Sub. for H. B. 3315 - Relating generally to readiness enhancement and commission bonuses - (Com. title amend. pending)
- Eng. H. B. 3432 - Relating to statutory construction - (Com. amend. and title amend. pending)
- Eng. H. B. 3509 - Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission – Consumer Advocate Fund (original similar to SB709)
- Eng. H. B. 3513 - Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority (original similar to SB714)

- Eng. H. B. 3515 - Making a supplementary appropriation to the Department of Veterans' Assistance, Veterans' Facilities Support Fund (original similar to SB716)
- Eng. H. B. 3518 - Making a supplementary appropriation to the Department of Agriculture (original similar to SB723)
- Eng. H. B. 3524 - Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund (original similar to SB706)
- Eng. H. B. 3526 - Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission (original similar to SB720)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2023

Wednesday, March 8, 2023

9 a.m.	Military	(Room 208W)
9:30 a.m.	Transportation & Infrastructure	(Room 451M)
10 a.m.	Government Organization	(Room 208W)
10:50 a.m.	Rules	(Room 219M)