

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2021
THIRTEENTH DAY

Charleston, West Virginia, Monday, February 22, 2021

The Senate met at 11 a.m.

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

Prayer was offered by Jake Nichols, Senate Parliamentarian, Elkview, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ron Stollings, a senator from the seventh district.

Pending the reading of the Journal of Friday, February 19, 2021,

At the request of Senator Sypolt, 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 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 2003—A Bill to amend and reenact §15-5-2 and §15-5-6 of the Code of West Virginia, 1931, as amended, all relating to the authority and obligations of the Governor and Legislature when in declared states of preparedness and emergency; clarifying the authority and obligations of the Governor during periods of preparedness and emergency; providing requirements for any proclamation or resolution issued relating to a state of preparedness or emergency; defining terms; specifying new criteria for the duration and termination of states of preparedness and emergency; providing for the extension of states of emergency and preparedness by concurrent resolution of the Legislature and specifying the duration of such extensions; providing directives for lawsuits filed challenging actions taken pursuant to the authority granted herein; and updating references to a state agency.

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

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

Eng. Com. Sub. for House Bill 2009—A Bill to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-1A-4 of said code; and to amend and reenact §21-5-1 of said code, all relating to limitations on the use of wages and agency shop fees by employers and labor organizations for political activities; prohibiting any person from coercing or intimidating any employee into making a political contribution or engaging in any form of political activity; prohibiting employers and any other persons responsible for the disbursement of wages and salaries from withholding or diverting any portion of an employee's wages or salary for political activities without express, written authorization; providing for employee modification or withdrawal of wage withholding or diversion to expire one year after execution; providing that the prohibition against withholding or diverting wages for political activities applies to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2017, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2017; providing for criminal penalties; setting forth requirements for employees to provide written authorization for disbursement of wages and salaries by an employer or other person for political activities; requiring the Secretary of State to promulgate forms; defining terms "political activities" and "agency shop fees"; modifying definition of "deductions" to exclude amounts for union or club dues; and making it an unfair labor practice under the Labor-Management Relations Act for the Private Sector for a labor organization to use agency shop fees paid by nonmembers for political activities, unless expressly authorized by the individual.

Referred to the Committee on the Judiciary.

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 2014—A Bill to amend and reenact §4-11-1, §4-11-2, §4-11-3, §4-11-4, §4-11-5, §4-11-6 and §4-11-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-1A-1 of said code; to amend and reenact §11B-1-1 and §11B-1-4 of said code; to amend and reenact §11B-2-11, §11B-2-21 and §11B-2-23 of said code; to amend and reenact §12-2-2 of said code; to amend and reenact §12-3-12 and §12-3-17 of said code; to amend and reenact §12-4-2 and §12-4-3 of said code; and to amend and reenact §15-5-6 of said code, all relating to disposition of moneys received by the state generally; specifying the role of the Legislature in appropriating federal funds; updating references to types of federal funds; providing for appropriation of federal funds in accordance with the state constitution; updating and clarifying statutory cross-references; limiting gubernatorial authority to spend federal funds without appropriation of the Legislature; continuing and limiting spending of certain emergency funds for natural disasters without additional enactment; requiring reports to the Legislature on proposed and actual spending of those funds; removing certain emergency federal fund exclusion language from the provisions governing appropriations of federal funds; establishing controlling provisions in case of conflict of law; clarifying statutes applicable to preparation of state budget; clarifying meaning of certain terms; conditioning the Secretary of Revenue's receipt and expenditure of federal funds; providing copy of certain reports to the Legislature; enlarging matters to be reported to the Legislature regarding revenue estimates, collections and appropriations; requiring any budget reductions be made before end of fiscal year; enlarging matters to be reported in the annual Consolidated Federal Funds report; authorizing funds to be reappropriated from one fiscal year to the next, and providing circumstances under which those funds expire to the general revenue fund instead of being reappropriated; modifying certain terms; updating

references to public officers; and prohibiting the suspension of any statute governing the appropriation or expenditure of public funds by the exercise of gubernatorial emergency powers.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 2325—A Bill to amend and reenact §30-27-5 and §30-27-10 of the Code of West Virginia, 1931, as amended, all relating to barbers and cosmetology; restricting the authority of the Board of Barbers and Cosmetologists to regulate the use of commonly available retail beauty products; and removing the requirement of continuing education for barbers and cosmetologists.

Referred to the Committee on Government Organization

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

Eng. House Bill 2366—A Bill to amend and reenact §29A-3-11 of the Code of West Virginia, 1931, as amended, relating to requiring agencies who have approved a proposed rule that affects fees or other special revenues to provide to the committee a fiscal note that includes the fund name, the fund number, and the past five years of the fund's revenues and expenses.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 29, Authorizing fee payment and expense reimbursement for attorneys participating on court teams established by Supreme Court of Appeals.

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,

Charles S. Trump IV,
Chair.

The bill, under the original double committee reference, was 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

Senate Bill 53, Providing next of kin criminally responsible for relative's death may not be involved in burial arrangements.

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

Com. Sub. for Senate Bill 53 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-6-22b, relating to barring a person who has been charged with willfully and intentionally causing the death of another by a criminal complaint, indictment or a child abuse petition from participating in or planning the funeral or burial of the deceased.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees:

By Senators Blair (Mr. President) and Baldwin (By Request of the Executive):

Senate Bill 373—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-31; and to amend and reenact §11-24-7 of this code, relating to the modernization of the collection of income taxes by adopting uniform provisions relating to the mobile workforce; removing the “throw out” provision; replacing origin sourcing with market sourcing for services and intangible property; and changing the apportionment of multi-state income from a four factor formula to a single sales factor.

Referred to the Committee on Finance.

By Senator Maynard:

Senate Bill 374—A Bill to amend and reenact §15A-3-14 of the Code of West Virginia, 1931, as amended, relating to increasing the amount of money for which a purchase may be made without obtaining three bids to \$10,000.

Referred to the Committee on Government Organization.

By Senator Rucker:

Senate Bill 375—A Bill to amend and reenact §18-5-16 of the Code of West Virginia, 1931, as amended, relating to county board of education open enrollment; providing county board of education policies for open enrollment; setting forth reasons for which an open enrollment application may be denied and the process for application denial; and amending provisions pertaining to funding in certain instances of a student transfer.

Referred to the Committee on Education.

By Senators Clements and Swope:

Senate Bill 376—A Bill to amend and reenact §17C-15-37 of the Code of West Virginia, 1931, as amended, relating to removing inoperative provisions requiring Commissioner of Highways set standards for studded snow tires.

Referred to the Committee on Transportation and Infrastructure.

By Senator Takubo:

Senate Bill 377—A Bill to amend and reenact §16-1-9a of the Code of West Virginia, 1931, as amended, relating to providing an extension of the deadline by which a water utility company and public service district must provide boiled water advisories through a text or voice alert mass notification system; and clarifying the advisory may be made by either text or voice alert.

Referred to the Committee on Health and Human Resources.

By Senator Weld:

Senate Bill 378—A Bill to amend and reenact §60A-4-407 of the Code of West Virginia, 1931, as amended, relating to requiring participation in a drug court program, under certain circumstances, before a conditional discharge for first offense of possession of a controlled substance may be granted.

Referred to the Committee on the Judiciary.

By Senator Weld:

Senate Bill 379—A Bill amend and reenact §15-2B-6 of the Code of West Virginia, 1931, as amended, relating to requiring persons convicted of certain felonies since March 9, 1995, provide a DNA sample.

Referred to the Committee on the Judiciary.

By Senator Hamilton:

Senate Bill 380—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-10-1, §5B-10-2, §5B-10-3, §5B-10-4, §5B-10-5, §5B-10-6, §5B-10-7, §5B-10-8, §5B-10-9, §5B-10-10, §5B-10-11, §5B-10-12, §5B-10-13, and §5B-10-14; and to amend said code by adding thereto a new article, designated §18-31A-1 and §18-31A-2, all relating to structuring the Electronic Telecommunication Open Infrastructure Act; conducting an inventory and developing coordinated deployment and operation of technology infrastructure within this state; definitions; legislative findings; technology infrastructure inventory, local government cooperation, inventory survey reporting requirements; rule-making authority of Secretary of Department of Administration; exemption from disclosure of confidential information; creating Joint Legislative Oversight Commission on Transportation and Infrastructure; powers and duties of the Secretary of Commerce; rule-making authority of Council for Community and Economic Development relating to secretary; study by secretary and inventory of management practices of technology and technology infrastructure; reporting requirements; providing technical and funding assistance to develop technology infrastructure; authorizing secretary to engage in consulting services for fee; contractual and joint venture agreements; liberal construction of article; and utilizing broadband infrastructure, technology, and information to enhance early childhood development.

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

By Senators Hamilton, Stover, and Woodrum:

Senate Bill 381—A Bill to amend and reenact §20-2-42i of the Code of West Virginia, 1931, as amended, relating to the Class LL nonresident fishing license; and providing it be issued for three consecutive days.

Referred to the Committee on Natural Resources.

By Senator Clements:

Senate Bill 382—A Bill to amend and reenact §17C-15-37 of the Code of West Virginia, 1931, as amended, relating to removing inoperative provisions requiring Commissioner of Highways set standards for studded snow tires.

Referred to the Committee on Transportation and Infrastructure.

By Senator Trump:

Senate Bill 383—A Bill to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempt property from taxation used exclusively for divine worship and the operation of a pre-K school, primary school, middle school, secondary school, or daycare center for children, which school or daycare center is operated by the church which owns the property or is operated by another not-for-profit organization or entity.

Referred to the Committee on Finance.

By Senator Trump:

Senate Bill 384—A Bill to amend and reenact §48-19-105 of the Code of West Virginia, 1931, as amended, relating to increasing minimum salaries for Bureau for Child Support Enforcement attorneys.

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

By Senator Maroney:

Senate Bill 385—A Bill to amend and reenact §49-2-111a of the Code of West Virginia Code, 1931, as amended, relating to clarifying the definition of “performance-based contracting”; and eliminating the requirement of the procurement process in performance-based contracts.

Referred to the Committee on Health and Human Resources.

By Senator Rucker:

Senate Bill 386—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to fees for certain military special registration plates for motor vehicles; providing that additional fee for the issuance of certain military special registration plates be equal to either the lesser of \$10 or the additional cost to produce the special plate; and reducing the fee for the renewal of the registration of a motor vehicle issued certain military special registration plates.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

By Senator Maroney:

Senate Bill 387—A Bill to amend and reenact §9-3-6 of the Code of West Virginia, 1931, as amended, relating to the program for drug screening of applicants for cash assistance.

Referred to the Committee on Health and Human Resources.

By Senator Maroney:

Senate Bill 388—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-130, relating to the creation of the Office of Quality Assurance and Evaluation for child welfare programs within the Department of Health and Human Resources.

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

By Senator Swope:

Senate Bill 389—A Bill to amend and reenact §29-31-2 of the Code of West Virginia, 1931, as amended, relating to clarifying that State Resiliency Office is responsible to plan for emergency and disaster response, recovery, and resiliency; clarifying that the state resiliency officer is a member of the board; placing the Secretary of the Department of Health and Human Resources on the board; requiring that state resiliency officer only vote in the event of a tie vote of the board; requiring that the board elect a vicechair from its membership; creating the duties and responsibilities of the vice chairman; and eliminating the notice requirement for board meetings.

Referred to the Committee on Government Organization.

By Senator Maroney:

Senate Bill 390—A Bill to amend and reenact §33-4A-1, §33-4A-2, §33-4A-3, §33-4A-4, §33-4A-5, §33-4A-6, §33-4A-7, and §33-4A-8 of the Code of West Virginia, 1931, as amended, all relating to the all-payer claims database; reflecting that Health Care Authority is part of the organizational structure of the Department of Health and Human Resources and is no longer a separate governmental agency; and clarifying and accurately delineating the roles of the entities responsible for the all-payer claims database.

Referred to the Committee on Health and Human Resources.

By Senator Maroney:

Senate Bill 391—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-101a, relating to a departmental study of the child protective services and foster care workforce.

Referred to the Committee on Health and Human Resources.

By Senator Hamilton:

Senate Bill 392—A Bill to amend §61-1-9 of the Code of West Virginia, 1931, as amended, relating to creating the penalty of incarceration to a conviction for the impersonation of a law-enforcement officer or official.

Referred to the Committee on the Judiciary.

By Senator Beach:

Senate Bill 393—A Bill to amend and reenact §21-11-10 of the Code of West Virginia, 1931, as amended, relating to requiring persons building residential structures to inform the county board of education of the number of units to be constructed and the estimated number of

occupants of those structures; and requiring this information be provided before a building permit may be issued.

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

By Senator Weld:

Senate Bill 394—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-63, relating to exempting certain persons from fees for hunting, fishing, and trapping licenses and permits; providing that fees for hunting, trapping, and fishing licenses and permits are waived for certain volunteer firefighters; including eligibility requirements; requiring compliance with all other requirements to obtain license; and granting rule-making authority.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

By Senator Maroney:

Senate Bill 395—A Bill to amend and reenact §5-16-4 of the Code of West Virginia, 1931, as amended, relating to expanding the membership of the Public Employees Insurance Agency Finance Board.

Referred to the Committee on Finance.

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

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

Your Committee on the Judiciary has had under consideration

Senate Bill 396 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by amending and reenacting §29-12A-5, relating to providing limitations on nuisance actions against fire department or emergency medical services fixed sirens.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 7, Ira “Noon” Copley and Marie Copley Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

Senate Resolution 6, Adopting special rule of order relating to proxy voting due to COVID-19 pandemic.

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

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 11, Declaring work stoppage or strike by public employees to be unlawful.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 11 pass?”

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—21.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Stover, Unger, and Woelfel—12.

Absent: Hamilton—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 11) passed with its title.

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

Com. Sub. for Senate Bill 12, Relating to local health department accountability.

On third reading, coming up in regular order, with the right having been granted on Friday, February 19, 2021, for amendments to be received on third reading, was reported by the Clerk.

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

Eng. Com. Sub. for Senate Bill 66, Creating Voluntary WVU Rifle Team Check-Off Program on hunting and fishing licenses.

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, Baldwin, Beach, Boley, Caputo, Clements, Grady, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Hamilton—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 66) passed with its title.

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

Eng. Senate Bill 69, Creating “Choose Life” special registration plate supporting adoption.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 69 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Clements, Grady, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Beach and Caputo—2.

Absent: Hamilton—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 69) passed with its title.

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

Eng. Com. Sub. for Senate Bill 280, Relating to e-commerce modernization.

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, Baldwin, Beach, Boley, Caputo, Clements, Grady, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Hamilton—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 280) passed with its title.

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

Eng. Com. Sub. for Senate Bill 293, Clarifying that Economic Development Authority is not authorized to enter into banking contracts without State Treasurer approval.

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, Baldwin, Beach, Boley, Caputo, Clements, Grady, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Hamilton—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 293) passed with its title.

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

Eng. Com. Sub. for Senate Bill 295, Relating generally to economic development loans and loan insurance issued by state.

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

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

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

On pages eight through eleven, by striking out all of section eleven-a and inserting in lieu thereof a new section, designated section eleven-a, to read as follows:

§12-6C-11a. Broadband Loan Insurance Program: requirements.

(a) Definitions. — For the purposes of this section, the following terms have the following meanings:

(1) “Authority” refers to the West Virginia Economic Development Authority.

(2) “Board” refers to the West Virginia Board of Treasury Investments.

(3) “Broadband Loan Insurance Program” or the “program” refers to the program through which the authority issues loan insurance, as authorized by §31-15-8a of this code.

(4) “Debt instrument” means any note, loan agreement, or any other form of indebtedness whatsoever and shall expressly include a letter of credit or other agreement relating to a letter of credit.

(5) “Eligible broadband provider” has the same meaning provided in §31-15-8a of this code.

(6) “Financial institution” means the bank, insurance company, or other institution in the business of lending money, that conditions issuance of a debt or security instrument on loan insurance by the authority, as described in §31-15-8a(b)(2) of this code.

(b) Loan for broadband deployment. —

(1) The loan previously authorized by 12-6C-11(h) of this code is hereby continued, subject to the requirements of this section.

(2) Subject to a liquidity determination and cash availability, the board shall provide a nonrecourse revolving loan to the authority, from the Consolidated Fund, in an amount not to exceed \$80 million, for the purpose of funding the Broadband Loan Insurance Program authorized by §31-15-8a of this code.

(3) The board shall make the loan moneys available to the authority upon receipt of the following:

(A) A written request by the authority that the board transfer a specific amount of loan moneys to the authority; and

(B) A written statement by the authority certifying that the authority is in full compliance with all applicable provisions of federal and state law, as well as any agreements entered into with the board.

(4) The authority may not award an amount of the loan moneys exceeding \$20 million, in any single calendar year, to insure the debt or security instruments, or costs related thereto, of any one broadband provider.

(5) The authority shall maintain the loan moneys made available pursuant to this section in an account that is separate and segregated from its other assets and programs. The loan moneys may not be transferred to any other fund or account or used for any purpose other than to insure debt and security instruments, as expressly authorized in §31-15-8a of this code. The authority may withdraw the loan moneys from the account only as provided in §12-6C-11a(d) of this code.

(6) The authority may not deduct or use any amount of loan moneys transferred pursuant to this subsection to pay for the authority's operating or administrative expenses.

(c) Loan terms and requirements. —

(1) The loan authorized by this subsection shall be classified by the board as a long-term fixed income investment and shall bear interest on the outstanding principal balance of the loan at a variable interest rate equal to the 12-month average of the board's yield on its West Virginia Money Market pool. The rate shall be set on July 1, 2017, and adjusted quarterly during each year thereafter. The maximum annual adjustment may not exceed one percent.

(2) The loan authorized by this section is nonrecourse. Upon payment in full of any said insured debt instruments or release in full of any security instruments, the authority shall reduce the outstanding balance of the loan by a like amount. Additionally, quarterly, the authority shall determine the outstanding balance of all such insured debt and security instruments and shall accordingly adjust the outstanding balance of the loan to equal the outstanding obligations of the authority for all said insured debt and security instruments. The authority shall notify the board, in writing, of any such adjustment.

(3) The loan is secured by a security interest that pledges and assigns the cash proceeds of all collateral securing all insurance agreements entered into by the authority pursuant to §31-15-

8a of this code. In the event moneys received by the authority respecting any individual insured debt or security instrument relating to providing broadband service under §31-15-8a of this code is insufficient to pay when due the principal or interest installments, or both, with respect to the loan authorized by this section by the board to the authority, the principal or interest, or both, as the case may be, due on the loan made to the authority pursuant to this section shall be deferred and any and all past-due principal and interest payments shall promptly be paid to the fullest extent possible upon receipt by the authority of all moneys respecting said debt instruments.

(d) *Withdraw of moneys in event of default.* – The authority may withdraw loan moneys from the separate and segregated account required by §12-6C-11a(b)(5) of this code, only in the event that a broadband provider has defaulted on a debt instrument or security interest insured by the authority. The loan monies may not be used for any purpose other than to pay amounts due to a financial institution resulting from the broadband provider’s default, according to a loan insurance agreement entered into pursuant to §31-15-8a of this code. Prior to withdrawing any amount of loan monies from the separate and segregated account, the authority shall provide notice of the default to the board and certify to the board that:

(1) The broadband provider has defaulted on a debt instrument or security interest insured by the authority and the broadband provider does not have the option to enter into a forbearance agreement with the financial institution; and

(2) The authority has pursued or will pursue any reasonable remedies to recoup the costs to the state resulting from the default, including but not limited to instituting a legal action to seize the collateral described in §12-6C-11a(c)(3) of this code.

(e) *Inspection of Records.* – Within 30 days of receiving a written request from the board, the authority shall provide the board with the opportunity to inspect and copy any records in the custody of the authority related to the Broadband Loan Program. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, loan insurance applications, loan insurance agreements, board minutes, audit reports, and transaction records. Records of the authority that may be held from time to time by the board pursuant to this subsection shall not be considered public records and shall be exempt from disclosure pursuant to the provisions of §29B-1-1 *et seq.* of this code.

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

Engrossed Committee Substitute for Senate Bill 295 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 295 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Hamilton—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 295) passed.

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

Eng. Com. Sub. for Senate Bill 295—A Bill to amend and reenact §12-6C-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §12-6C-11a; to amend and reenact §31-15-8 of said code; and to amend said code by adding thereto a new section, designated §31-15-8a, all relating generally to economic development loans and loan insurance issued by the state; clarifying provision stating that the Board of Treasury Investments has no fiduciary duty with regard to economic development loans administered by the Economic Development Authority; providing that the Board of Treasury Investments may inspect and copy, upon written notice, all records related to loans made available by the board to the Economic Development Authority and providing that such records shall not be considered public records and shall be exempt from disclosure pursuant to the provisions of chapter 29B of the code; defining terms; limiting the total amount of loan moneys that the board shall make available to the authority for the Broadband Loan Insurance Program to \$80 million; establishing requirements that must be met before broadband loan insurance moneys will be made available to the authority; limiting the amount of loan insurance that the authority may award in a single year to a single broadband provider to \$20 million; providing that the authority shall maintain broadband loan insurance loan moneys in a separate and segregated account; providing that broadband loan insurance moneys may only be drawn upon in the event of a broadband provider default on an insured debt or security instrument; clarifying that the authority may not deduct administrative or operational costs from broadband loan insurance loan moneys; setting forth requirements that must be met before the authority may withdraw loan insurance moneys in the event of a broadband provider's default; providing that the authority may only use loan insurance moneys to satisfy certain obligations arising under a loan insurance agreement; requiring the authority to submit quarterly reports to the Joint Committee on Government and Finance and to the Governor containing certain information related to its loan insurance program; requiring the authority to make application forms for broadband loan insurance publicly available on its website; establishing the minimum information an applicant for broadband loan insurance shall be required to submit to the authority; establishing minimum criteria that the authority must consider in its broadband loan insurance application review process; establishing that the authority may provide loan insurance for eligible broadband providers pursuant to awards made by federally funded broadband expansion programs; providing that the authority may not issue loan insurance to a broadband provider that has previously defaulted on any debt or security instrument insured by the authority; requiring the authority to post certain information regarding loan insurance agreements on its website; requiring the authority to adhere to certain accounting and record-keeping practices; requiring the authority to submit quarterly reports to the Board of Treasury Investments, the Joint Committee on Government and Finance, and the Governor containing certain information on insured loans and broadband projects financed by insured loans; requiring a biennial legislative audit of the Broadband Loan Insurance Program; removing obsolete language; and making technical corrections.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale,

Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Hamilton—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 295) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 1, Providing for parity of payment for telehealth services between service in-person and service provided through telehealth platform.

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

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

On page three, section seven-b, line thirty-five, after the word “encounters” by inserting the words “after July 1, 2021”;

On page three, section seven-b, line thirty-eight, after the word “telehealth” by inserting the words “after July 1, 2021”;

On page four, section twenty-eight, line two, after the word “encounters” by inserting the words “after July 1, 2021”;

On page four, section twenty-eight, line five, after the word “telehealth” by inserting the words “after July 1, 2021”;

On page twenty-one, section one, line thirty-nine, after the word “code” by inserting the words “which issues, renews, amends, or adjusts a plan, policy, contract, or agreement after July 1, 2021,”;

And,

On page twenty-one, section one, line forty-two, after the word “code” by inserting the words “which issues, renews, amends, or adjusts a plan, policy, contract, or agreement after July 1, 2021,”.

The bill (Com. Sub. for S. B. 1), as amended, was then ordered to engrossment and third reading.

Senate Bill 61, Expanding Coyote Control Program through voluntary assessment on breeding cows.

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

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

On page one, section six-e, line fifteen, after the word “age” by striking out the words “sheep and goats” and inserting in lieu thereof the words “sheep, goats, and/or cows”.

The bill (S. B. 61), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 244, Making it unlawful for public utility to prohibit customers from hiring contractors to construct, install, or maintain connections to public utility.

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

On motion of Senator Martin, 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 3. DUTIES AND PRIVILEGES OF PUBLIC UTILITIES SUBJECT TO REGULATIONS OF COMMISSION.

§24-3-2. Discrimination prohibited.

(a) No public utility subject to the provisions of this chapter ~~shall~~ may, directly or indirectly, by any special rate, rebate, drawback or other device or method, charge, demand, collect, or receive from any person, firm, or corporation, a greater or less compensation, for any service rendered or to be rendered, than it charges, demands, collects, or receives from any other person, firm, or corporation for doing a like and contemporaneous service under the same or substantially similar circumstances and conditions.

(b) It ~~shall be~~ is unlawful for any public utility subject to the provisions of this chapter to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or any particular character of traffic or service, in any respect whatsoever, or to subject any particular person, firm, corporation, company or locality, or any particular character of traffic or service, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(c) No public service district or municipality that owns and operates a water or sewer public utility may prohibit a customer or contractor of a customer, at the customer's expense, from constructing, installing, or maintaining any connections, extensions, or other infrastructure necessary for the customer to connect to the public utility if all the following requirements are met:

(1) The customer or the utility shall file an extension agreement with the commission in accordance with the rules of the commission and obtain commission approval prior to executing or implementing the agreement. The commission may specify that the actual connection to the public utility be made by the public utility or in the presence of the public utility if the commission deems so reasonably necessary to protect public utility assets or the public.

(2) The customer's plans and all work pursuant thereto shall meet and may, but need not, exceed the public utility's standards and practices: *Provided*, That the commission may, upon request by the customer or public utility, do any or all of the following:

(A) Negate any standards and practices not set forth in state or federal law that the commission deems unreasonable or discriminatory;

(B) Impose reasonable standards and practices that protect the public utility's assets.

(3) The customer or customer's contractors, if any, performing the work shall meet and may, but need not, exceed those qualifications required by the public utility for the applicable type of work: *Provided*, That the commission may, upon request by the customer or public utility, do any or all of the following:

(A) Negate any qualifications not set forth in state or federal law that the commission deems unreasonable or discriminatory;

(B) Impose reasonable qualifications on the customer or customer's contractors, if any, performing the work that protect the public utility's assets;

(C) Approve any customer or contractor the commission deems qualified to perform such work and responsible: *Provided*, That the commission may impose such obligations upon any customer or contractor it deems necessary to protect the public utility's assets.

(4) The customer shall submit plans concerning all public utility construction, installations, extensions, and connections to the applicable public service district or municipality at least 30 days prior to any connection to the public utility or any other work that could affect the public utility.

(5) The customer shall make all stages of work relating to the public utility available for inspection by the public service district or municipality at the public utility's expense.

(6) The customer shall share the final construction plans, if any, with the public utility; and

(7) The customer or owner shall, upon completion of construction and connection to the public utility, transfer ownership of such connections, extensions, property, plants, rights-of-way, and easements to the public utility: *Provided*, That no transfer of ownership must be accepted by a public utility past any service meter.

(d) ~~Nothing in This section shall be construed to~~ does not prevent the commission from:

(a) (1) Authorizing or requiring any rate design consistent with the purposes and policies set forth in §24-2A-1 *et seq.* of this code; or

(b) (2) Authorizing a private water, sewer, or combined water and sewer utility to voluntarily implement a rate design featuring reduced rates and charges for service to qualifying low-income residential customers.

Following discussion,

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

The bill (Com. Sub. for S. B. 244), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Senate Bill 7, Limiting political activity by public employees.

Com. Sub. for Senate Bill 42, Creating Zombie Property Remediation Act of 2021.

Senate Bill 67, Relating to authority of Emergency Medical Services Advisory Council.

Com. Sub. for Senate Bill 79, Providing fair mechanism for adjudication of requests for relocation of parent with child.

Senate Bill 89, Exempting certain kindergarten and preschool programs offered by private schools from registration requirements.

Com. Sub. for Senate Bill 182, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

Com. Sub. for Senate Bill 270, Providing for collection of tax by hotel marketplace facilitators.

Com. Sub. for Com. Sub. for Senate Bill 275, Relating generally to WV Appellate Reorganization Act of 2021.

Senate Bill 296, Relating generally to repealing certain rules.

And,

Senate Bill 372, Providing greater discretion to WV Board of Medicine to approve graduate clinical training.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Ihlenfeld, Azinger, Takubo, Tarr, and Stollings.

At the request of Senator Azinger, and by unanimous consent, the Senate stood in observance of a moment of silence in recognition of the passing of Rush Limbaugh, a former radio personality and political commentator.

At the request of Senator Lindsay, unanimous consent being granted, the remarks by Senator Ihlenfeld were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Takubo, and by unanimous consent, a leave of absence for the day was granted Senator Hamilton.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on February 19, 2021:

Senate Bill 19: Senator Grady;

Senate Bill 29: Senator Woodrum;

Senate Bill 42: Senator Lindsay;

Senate Bill 49: Senator Lindsay;

Senate Bill 54: Senator Karnes;

Senate Bill 58: Senator Karnes;

Senate Bill 73: Senator Lindsay;

Senate Bill 74: Senator Karnes;

Senate Bill 77: Senator Karnes;

Senate Bill 87: Senator Karnes;

Senate Bill 90: Senator Karnes;

Senate Bill 92: Senator Grady;

Senate Bill 103: Senator Grady;

Senate Bill 246: Senator Karnes;

Senate Bill 269: Senator Karnes;

Senate Bill 279: Senator Karnes;

Senate Bill 284: Senator Karnes;

Senate Bill 325: Senator Grady;

Senate Bill 340: Senator Karnes;

Senate Bill 341: Senator Karnes;

Senate Bill 343: Senator Grady;

Senate Bill 344: Senator Lindsay;

Senate Bill 347: Senators Lindsay and Grady;

Senate Bill 361: Senators Woelfel, Ihlenfeld, Plymale, Phillips, Smith, Trump, Roberts, and Karnes;

Senate Bill 362: Senators Baldwin, Phillips, Clements, Stollings, and Maroney;

Senate Bill 365: Senators Phillips, Smith, Roberts, and Martin;

Senate Bill 367: Senator Martin;

Senate Bill 368: Senators Stollings, Plymale, Phillips, Woelfel, and Smith;

Senate Bill 369: Senators Phillips, Smith, Swope, Karnes, and Grady;

Senate Bill 371: Senators Plymale, Smith, Jeffries, Maroney, and Roberts;

Senate Joint Resolution 1: Senator Karnes;

Senate Joint Resolution 6: Senator Karnes;

Senate Joint Resolution 7: Senator Karnes;

Senate Joint Resolution 8: Senator Rucker;

Senate Concurrent Resolution 5: Senator Martin;

Senate Concurrent Resolution 7: Senators Stollings, Phillips, and Woelfel;

And,

Senate Resolution 8: Senator Karnes.

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Takubo, at 12:07 p.m., the Senate adjourned until tomorrow, Tuesday, February 23, 2021, at 11 a.m.

SENATE CALENDAR

**Tuesday, February 23, 2021
11:00 AM**

THIRD READING

Eng. Com. Sub. for S. B. 1 - Providing for parity of payment for telehealth services between service in-person and service provided through telehealth platform

Com. Sub. for S. B. 12 - Relating to local health department accountability - (With right to amend)

Eng. S. B. 61 - Expanding Coyote Control Program through voluntary assessment on breeding cows

Eng. Com. Sub. for S. B. 244 - Making it unlawful for public utility to prohibit customers from hiring contractors to construct, install, or maintain connections to public utility

SECOND READING

Com. Sub. for S. B. 7 - Limiting political activity by public employees

Com. Sub. for S. B. 42 - Creating Zombie Property Remediation Act of 2021

S. B. 67 - Relating to authority of Emergency Medical Services Advisory Council

Com. Sub. for S. B. 79 - Providing fair mechanism for adjudication of requests for relocation of parent with child

S. B. 89 - Exempting certain kindergarten and preschool programs offered by private schools from registration requirements

Com. Sub. for S. B. 182 - Authorizing miscellaneous agencies and boards to promulgate legislative rules (original similar to HB2446).

Com. Sub. for S. B. 270 - Providing for collection of tax by hotel marketplace facilitators

Com. Sub. for Com. Sub. for S. B. 275 - Relating generally to WV Appellate Reorganization Act of 2021

S. B. 296 - Relating generally to repealing certain rules (original similar to HB2513)

S. B. 372 - Providing greater discretion to WV Board of Medicine to approve graduate clinical training

FIRST READING

Com. Sub. for S. B. 53 - Providing person criminally responsible for another's death may not be involved in burial arrangements

S. B. 396 - Providing limitations on nuisance actions against fire department or EMS fixed sirens

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2021

Tuesday, February 23, 2021

10 a.m.	Transportation & Infrastructure	(Room 451M)
10 a.m.	Military	(Room 208W)