

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE  
REGULAR SESSION, 2021  
FIFTEENTH DAY

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Charleston, West Virginia, Wednesday, February 24, 2021

The Senate met at 11:03 a.m.

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

Prayer was offered by Jeffrey L. Branham, Senate Doorkeeper, Cross Lanes, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable William J. Ihlenfeld II, a senator from the first district.

Pending the reading of the Journal of Tuesday, February 23, 2021,

At the request of Senator Stover, 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 and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2260**—A Bill to amend and reenact §49-2-111a of the Code of West Virginia, 1931, as amended, relating to the department's obligations to enter into performance-based contracts with child-placing agencies; extending a deadline; and exempting the contract from purchasing.

Referred to the Committee on Health and Human Resources.

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

**Eng. House Bill 2500**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-63-1, §16-63-2, and §16-63-3, all relating to establishing statewide uniformity for auxiliary container regulations.

Referred to the Committee on Government Organization.

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

**Eng. Com. Sub. for House Joint Resolution 1**—Proposing an amendment to the Constitution of the State of West Virginia, amending section 2, article 12 thereof, relating to education and the supervision of free schools; clarifying that the general supervisory authority of the State Board of Education is subject to legislative enactments; allowing the board to promulgate rules; requiring rules to be submitted to the Legislature for its review and approval, amendment, or rejection; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 23rd day of February, 2021, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for H. B. 2358)**, Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act.

And,

**(H. B. 2359)**, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee*  
Dean Jeffries,  
*Chair, House Committee*

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Senate Bill 16**, Providing continued eligibility for developmental disability services to dependents of military members.

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,

Ryan W. Weld,  
*Chair.*

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Military.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 39**, Prohibiting insurance coverage from requiring prior authorization for tests to stage cancer.

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,

Michael J. Maroney,  
*Chair.*

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

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

Your Committee on Education has had under consideration

**Senate Bill 294**, Permitting early closure of Prepaid Tuition Trust Fund.

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

**Com. Sub. for Senate Bill 294** (originating in the Committee on Education)—A Bill to amend and reenact §18-30-3, §18-30-4, and §18-30-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-30-6a, all relating generally to savings and investment programs offered by the state; defining terms; reconciling the definition of the term “qualified education expenses” with federal law for college savings program tax benefit purposes; increasing the number of persons on the Board of Trustees of the College Prepaid Tuition and Savings Program; requiring that certain members appointed to the board have experience, knowledge, or skill in a financial field; providing that reasonable efforts shall be made to appoint one member to the board with a CFA; authorizing early closure of the West Virginia Prepaid Tuition Trust Plan and Fund upon depletion of the fund and the election of the board; authorizing the board to expend moneys in the Prepaid Tuition Trust Plan Escrow Fund to satisfy outstanding obligations of the West Virginia Prepaid Tuition Trust Plan; specifying when Prepaid Tuition Plan account owner assets are presumed abandoned; providing for allocation of moneys remaining in the escrow fund upon closure of the Prepaid Tuition Plan; permitting the board to maintain a certain amount in the escrow fund for 10 years following closure of the Prepaid Tuition Trust Fund to satisfy potential claims; providing conditions for final closure of the escrow fund; creating a nonappropriated special revenue fund; transferring moneys from the escrow fund to the special revenue fund; authorizing receipts to, and expenditures from, the special revenue fund for certain purposes related to new savings and investment programs; providing for investment of moneys in the special revenue fund; removing obsolete language; and making technical corrections.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

The bill (Com. Sub. for S. B. 294), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

**Senate Bill 308**, Modifying requirement that racetrack participate in WV Thoroughbred Development Fund by certain date.

And,

**Senate Bill 358**, Removing prohibition on ATMs located in area where racetrack video lottery machines are located.

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

Respectfully submitted,

Eric J. Tarr ,  
*Chair.*

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

**Senate Bill 321**, Clarifying and updating language regarding Fairmont State alumni license plates.

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

**Com. Sub. for Senate Bill 321** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to updating language regarding special license plates for Fairmont State University.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 338**, Creating Fire Service Equipment and Training Fund.

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,

Mark R. Maynard,  
*Chair.*

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 374**, Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 377**, Relating to extension for boil water advisories by water utility or public service district.

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

**Com. Sub. for Senate Bill 377** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-1-9a of the Code of West Virginia, 1931, as amended, relating to public water systems; 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.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 389**, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency.

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

**Com. Sub. for Senate Bill 389** (originating in the Committee on Government Organization)—  
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 State Resiliency Office Board; placing Secretary of the Department of Health and Human Resources on board; requiring that State Resiliency Officer vote only in the event of a tie vote of board; requiring that board elect a vice chair from its membership; establishing duties and responsibilities of the vice chair; and eliminating notice requirement for board meetings.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

**Senate Concurrent Resolution 6**, US Navy Seaman 2nd Class Wilbur 'Webb' Hahn and John W. Hahn Memorial Bridge.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

Senator Rucker, 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 2012**, Relating to public charter schools.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*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. House Bill 2262**, Relating to the controlled substance monitoring database.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,  
*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 Senator Swope:**

**Senate Bill 433**—A Bill to amend and reenact §17B-2B-1, §17B-2B-2, §17B-2B-4, and §17B-2B-6 of the Code of West Virginia, 1931, as amended, all relating to authorizing the Division of Rehabilitation Services to approve acceptable training programs required for low vision individuals to obtain a Class G driver's license.

Referred to the Committee on Transportation and Infrastructure.

**By Senator Woelfel:**

**Senate Bill 434**—A Bill to amend and reenact §30-29-3 of the Code of West Virginia, 1931, as amended, relating to requiring law-enforcement training to include standards and procedures for ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault cases involving adult victims.

Referred to the Committee on the Judiciary.

**By Senator Roberts:**

**Senate Bill 435**—A Bill to amend and reenact §21-6-3 of the Code of West Virginia, 1931, as amended, relating to issuance of a work permit; requiring county superintendents to authorize at least one school principal or administrator at each nonpublic school in the district to issue a work permit for students enrolled at the school; removing obsolete term; and providing exceptions to the requirement for a certificate showing that the child is attending school.

Referred to the Committee on Education.

**By Senator Rucker:**

**Senate Bill 436**—A Bill to amend and reenact §22-15-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-15A-19 of said code; to amend and reenact §22-16-2 and §22-16-4 of said code; to amend and reenact §22C-4-2 and §22C-4-30 of said code; and to amend and reenact §24-2-1m of said code, all relating to solid waste facilities; defining terms; specifying that a mixed waste resource recovery facility is not a solid waste facility; conforming definition of “commercial solid waste facility” in articles relating to recycling assessment fees, solid waste landfill assistance programs, and county and regional solid waste authorities; providing for exemption of such facilities from solid waste assessment interim fees; clarifying that mixed waste resource recovery facilities are not subject to the jurisdiction of the Public Service Commission.

Referred to the Committee on Government Organization.

**By Senator Maroney:**

**Senate Bill 437**—A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating to health care provider tax; defining terms; modifying the effective date; and removing the expiration date for the tax.

Referred to the Committee on Finance.

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

**Senate Bill 438**—A Bill supplementing, amending, and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles, fund 9007, fiscal year 2021, organization 0802, for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

**By Senator Swope:**

**Senate Bill 439**—A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating to operation of vehicles with safety belts; allowing admissibility of certain evidence in a civil action for damages; changing definition of “passenger vehicle” for purposes of safety belt requirement; and allowing the admission of the use or nonuse of a safety belt on the issues of negligence, contributory negligence, comparative negligence, and failure to mitigate damages.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 440**—A Bill to amend and reenact §17-2A-8 of the Code of West Virginia, 1931, as amended, relating to requiring the Commissioner of Highways to post online any petition, notice, order, decision, or other record related to the abandonment or discontinuance of any state highway or road, or any part thereof; and providing that any member of the public shall be allowed to participate in or attend a hearing relating to the abandonment or discontinuance of any state highway or road by virtual means.

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



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

**Senate Bill 441**—A Bill supplementing, amending, and increasing an existing item of appropriation from the State Road Fund, to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2021, organization 0803, for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

**By Senator Tarr:**

**Senate Bill 442**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21A-2D-1, §21A-2D-2, §21A-2D-3, §21A-2D-4, §21A-2D-5, §21A-2D-6, §21A-2D-7, §21A-2D-8, §21A-2D-9, and §21A-2D-10, all relating to the Unemployment Insurance Program Integrity Act; enacting the unemployment compensation indexing system; providing definitions; detailing unemployment insurance program integrity; providing for data sharing; providing action on eligibility determinations; recovering overpayments and preventing fraud; providing a mechanism for an employer to contact Workforce West Virginia when an employee is offered their job back but refuses to be rehired; reporting to the Legislature; providing for rulemaking; and providing an effective date.

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

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

**Senate Bill 443**—A Bill supplementing, amending, decreasing, and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2021, organization 0803, for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

**By Senator Nelson:**

**Senate Joint Resolution 10**—Proposing an amendment to the Constitution of the State of West Virginia, amending section three, article VI thereof, relating to limiting the number of years delegates and senators may serve; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Senator Plymale offered the following resolution:

**Senate Concurrent Resolution 9**—Requesting the Division of Highways name bridge number 50-075/00-007.25 (50A149), locally known as Buffalo Beam Span, carrying WV 75 over Twelvepole Creek in Wayne County, the “Haynie Family Veterans Memorial Bridge”.

Whereas, The Haynies have been in the Buffalo Creek area since the early 1800s and served their country in World Wars I and II; and

Whereas, Anthony Haynie, PVT, WW I, was born July 22, 1895, in Wayne County, West Virginia. He enlisted in the U.S. Army on October 5, 1917, and was discharged on June 10, 1919. He served under General Pershing, Battery C 315, Field Artillery, 80 Division. PVT Anthony Haynie’s unit had advanced to the town of Romagne and were engaged with the Germans. Three

guns of his battery were knocked out by shell fire and gas attack. The battery commander asked for volunteers to man the guns in spite of the fierce gas attack and PVT Anthony Haynie answered the call. His record reveals that he was severely wounded in that engagement and that he received the Purple Heart. PVT Anthony Haynie died on January 17, 1976; and

Whereas, Arthur Haynie was born November 17, 1921. He attended the old wooden school in Buffalo, West Virginia. He entered the U.S. Army on December 14, 1942. At discharge, he was a Tech 5 of the military police. He died on September 18, 1995; and

Whereas, James E. Haynie, PVT, WW II, was born on August 16, 1923, in Wayne County. He attended and graduated from Buffalo High School. He served in the U.S. Army from July 8, 1943, through December 7, 1945. PVT James E. Haynie was a demolition expert and served in Calcutta and Burma. His unit merged with Merrill's Marauders and came behind them, "cleaning up their mess". He received the Asiatic Pacific Theater Ribbon, WW II Victory Ribbon, and Distinguished Unit Badge with two Bronze Stars. PVT James E. Haynie died September 14, 2014; and

Whereas, Robert V. Haynie, PVT, WW II, was born on March 24, 1925, in Wayne County. He attended Buffalo High School. He served in the U.S. Army from August 28, 1943, through February 14, 1946. PVT Robert V. Haynie was a military policeman serving in the European Theater of Operation. He served in Normandy, Northern France, and the Rhineland. He was a recipient of the Purple Heart, the European African Middle Eastern Theater Ribbon, and the WW II Victory Ribbon. PVT Robert V. Haynie died December 25, 2018; and

Whereas, Charles E. Haynie, WW II, was born on April 14, 1927, in Wayne County. He attended Buffalo High School. He enlisted in the U.S. Navy and served on the USS Sandoval (APA-194) as a coxswain in Iwo Jima. Charles E. Haynie died November 20, 2016; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Haynie family and their 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 number 50-075/00-007.25 (50A149), locally known as Buffalo Beam Span, carrying WV 75 over Twelvepole Creek in Wayne County, the "Haynie Family Veterans 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 "Haynie Family Veterans Memorial Bridge"; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Caputo and Weld offered the following resolution:

**Senate Resolution 9**—Designating February 25, 2021, as Fairmont State University Day at the Legislature.

Whereas, The State of West Virginia is committed to supporting higher education; and

Whereas, West Virginia's colleges and universities open the doors of opportunity for West Virginia's students; and

Whereas, Fairmont State University helps West Virginians achieve their education and career goals, and meet the workforce needs of the State of West Virginia; and

Whereas, Fairmont State University contributes significantly to the state and local economies of West Virginia; and

Whereas, Fairmont State University's student body is comprised of nearly 90 percent of native West Virginians and over 60 percent first-generation students; and

Whereas, Fairmont State University educates students from every county in West Virginia; and

Whereas, Through the commitment of outstanding students, faculty, staff, administration, and leadership, Fairmont State University fulfills student-centered missions which benefit the entire state; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 25, 2021 as Fairmont State University Day at the Legislature; and, be it

*Further Resolved*, That the Senate extends its sincere gratitude and appreciation to Fairmont State University for its contributions to the State of West Virginia; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to President of Fairmont State University, Dr. Mirta M. Martin.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 8**, Fire Chief Kenneth Junior Russell Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

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

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 67 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 67) 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 79**, Providing fair mechanism for adjudication of requests for relocation of parent with child.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 79 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 79) passed.

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

**Eng. Com. Sub. for Senate Bill 79**—A Bill to amend and reenact §48-9-403 of the Code of West Virginia, 1931, as amended, all relating to providing a fair mechanism for the adjudication of requests for relocation of a parent with a child; providing circumstances for which relocation of a parent constitutes a substantial change in the circumstances of the child; requiring the relocating parent to file a verified petition for the court for modification of the parenting plan; identifying consequences of failure to comply with the requirements of this section; requiring a copy of the petition to be served on the other parent and all other persons allocated custodial time with the child; establishing requirements for the petition for modification of the parenting plan; requiring a hearing to be held on the petition at least 30 days in advance of the proposed date of relocation; providing for an expedited hearing; authorizing the court to revise the parenting plan; authorizing the court to allocate costs between the parties; establishing the burden of proof for the relocating parent; defines when a relocation is for a legitimate purpose; establishing a move with a legitimate purpose is unreasonable unless the relocating parent proves that the purpose is not substantially achievable without moving and that moving to a location that is substantially less disruptive of the

other parent's relationship to the child is not feasible; requiring the court to consider the best interests of the child when modifying the parenting plan; requiring the court to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements; setting forth the opportunity for parties to file a modified parenting plan signed by all parties; conditionally requiring an initial permanent parenting plan to be established before a relocation is considered; requiring interviewing or questioning of the child to be conducted in accordance with Rule 17 of the Rules of Practice and Procedure for Family Court.

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

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

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 89) 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 182**, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

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, Hamilton, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 182) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, 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)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 182) takes effect from passage.

*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 270**, Providing for collection of tax by hotel marketplace facilitators.

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, Hamilton, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 270) passed with its title.

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

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

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 Committee Substitute for Senate Bill 275 pass?”

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Karnes, Maroney, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—19.

The nays were: Baldwin, Beach, Caputo, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Martin, Plymale, Romano, Stollings, Stover, Unger, and Woelfel—15.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 275) 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 296**, Relating generally to repealing certain rules.

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, Hamilton, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 296) 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 372**, Providing greater discretion to WV Board of Medicine to approve graduate clinical training.

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 372 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, 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)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 372) passed with its title.

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

The Senate proceeded to the ninth order of business.

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

Having been read a second time on yesterday, Tuesday, February 23, 2021, and now coming up in regular order with Senator Trump's amendment to the bill (*shown in the Senate Journal of that day, page 15*) pending, was reported by the Clerk.

The question being on the adoption of Senator Trump's pending amendment to the bill.

At the request of Senator Trump, and by unanimous consent, Senator Trump's pending amendment to the bill was withdrawn.

On motions of Senators Romano and Trump, the following amendment to the bill (Com. Sub. for S. B. 7) was reported by the Clerk and adopted:

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

#### **ARTICLE 4. POLITICAL ACTIVITY BY PUBLIC EMPLOYEES AND PUBLIC OFFICIALS.**

##### **§6B-4-1. Legislative purposes and findings.**

(a) The purpose of this bill is to encourage professionalism by public employees and public officials, and to protect them from political coercion in the workplace while carrying out their work that is publicly funded by state taxpayers.

(b) The Legislature hereby finds that:

(1) Public employees and public officials have and retain the right to vote as they choose and to express their opinions on political subjects and candidates. These are fundamental rights which the Legislature expressly recognizes and honors, and with which the provisions of this article should not be construed to interfere.

(2) Political activity by public employees and public officials must be limited for public institutions, including schools and institutions of higher education, for them to function fairly and effectively.

(3) Public employees should be protected from being utilized for partisan political purposes in the discharge of their duties.

##### **§6B-4-2. Definitions; exceptions.**

(a) For purposes of this article, "political activity" means expressly advocating for others to vote for or against a candidate or to support or oppose a political committee or political party.

(b) This article shall not apply to:

(1) Judicial officers;

(2) Employees of the judicial branch;

(3) Members of the Legislature;

(4) Publicly elected members of the Board of Public Works; *Provided*, That a publicly elected member of the Board of Public Works who is engaging in political activity shall announce that he or she is engaging in political activity and not official activity;



(5) Uncompensated public officials; and

(6) Uncompensated public servant volunteers.

**§6B-4-3. Limitation on political activity by public employees and public officials.**

In addition to any other restrictions on political activity imposed by this code or by federal law, a public employee or a public official may not engage in political activity:

(1) While on duty; or

(2) While using any vehicle owned or leased by the State of West Virginia or any agency or political subdivision thereof.

**§6B-4-4. Violations and penalties.**

Upon a final decision by the commission that a public employee or a public official has violated any provision of §6B-4-3 of this code shall be subject to potential sanctions, recommendation of termination from employment or removal from office, or both as provided in §6B-2-4 of this code.

The bill (Com. Sub. for S. B. 7), as amended, was then ordered to engrossment and third reading.

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

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

On motion of Senator Swope, 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 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES, AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.**

**§8-12-22. Foreclosure actions involving abandoned properties.**

(a) This section shall be known and may be cited as the “Zombie Property Remediation Act of 2021”.

(b) No action may be brought pursuant to this section until the municipality has informed any and all mortgagees in writing and by certified mail, return receipt requested, to the mortgagee’s registered agent identified by the mortgagee at the office of the West Virginia Secretary of State or, if not registered with the West Virginia Secretary of State, then to the mortgagee’s principal place of business, of the municipality’s intent to file a proceeding pursuant to subsection (c) and provide the mortgagee forty-five days from receipt by the agent or at the principal place of business referenced above of the notice of intent to file an action pursuant to subsection (c) to respond to the notice and notify the municipality of the status of the property, the status of the note and the mortgagee’s response to the notice: *Provided*, That the municipality may not issue a notice pursuant to this subsection or bring an action pursuant to subsection (c) if the owner of the property is in bankruptcy without the express consent of the bankruptcy court.

(c) If a property has been determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare pursuant to an ordinance adopted pursuant to §8-12-16 of this code, or determined vacant and abandoned pursuant to §8-12-22(d) of this code, the municipality in which the property is located may commence a proceeding in which the property is located to compel any or all mortgagees to:

(1) If the mortgagee has classified that the note is in default, the trustee or mortgagee shall commence a foreclosure procedure within four months and shall meet all deadlines to ensure the case is ready to be moved to a trustee sale within a reasonable time period but not to exceed one year;

(2) In the case of a loss mitigation application being filed by the borrower, all provisions of this section shall be tolled until such time as the note is again in default and the time period described in subsection (c)(1) of this section has passed, or otherwise until the mortgagee has determined that the borrower is ineligible for loss mitigation;

(3) If a foreclosure has already been commenced, submit the necessary notices and documentation needed to move the foreclosure to a trustee sale within four months; or

(4) Issue a certificate of discharge of the trust deed lien or mortgage within three months and file a release of the lien or mortgage with the office of the clerk of the county commission in the county where the property is located.

(d) As used in this section, "vacant and abandoned property" means real property with respect to which the plaintiff has proven, by a preponderance of the evidence, that it meets any of the following requirements:

(1) no person or persons actually and currently conduct a lawfully licensed business, or lawfully reside, dwell, or live in any part of the building as the legal or equitable owner(s), tenant-occupant(s), owner-occupant(s), or tenant(s) on a permanent, non-transient basis; or

(2) if the exterior maintenance and major systems of the building and the surrounding real property thereof are in violation of applicable building codes or health and sanitation codes and there is no continual utility service evidencing actual use of electric, gas, water service, etc. or

(3) Each mortgagor has separately issued a sworn written statement, expressing his or her intent to vacate and abandon the property and an inspection of the property shows no evidence of occupancy to indicate that any persons are residing there.

(4) As used in this section, "continual" shall mean to be without more than one thirty (30) day interruption in any given three hundred sixty (360) day period and must be more than merely registered to the owner for purposes of billing and must be utilized, at a minimum, in order to keep the property and the major systems of the building in compliance with applicable building and safety codes.

(5) Residential real property may not be considered vacant and abandoned if a structure located on the property meets any of the following:

(A) An unoccupied building that is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion;

(B) A building occupied on a seasonal basis, but otherwise secure;

(C) A building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute of which the mortgage servicer has actual notice;

(D) A building damaged by a natural disaster and one or more of its owners intends to repair and reoccupy the property; or

(E) A building occupied by the mortgagor, a relative of the mortgagor, or a tenant lawfully in possession.

(e) For any foreclosure resulting under this section or otherwise pursuant to any trust deed of record, if the successful bidder is the mortgagee, the trustee shall transfer by recorded deed, the property to the mortgagee within 30 days of the foreclosure sale. Any municipality wherein the property is located may seek an injunction to require the trustee, acting on behalf of the mortgagee, to convey the property to the mortgagee by recorded deed of record. Any municipality filing such an action and obtaining relief by injunction may recover attorney fees and costs related to the action.

(f) Any property fitting the criteria described in subsection (d) of this section which is not situated within the boundaries of any incorporated municipality may be served in the manner described in subsections (b) and (c) by the county commission of the county in which the property is located, with all attendant duties thereto.

(g) Nothing in this section may be construed to limit or restrain any incorporated municipality's powers to dispose of unencumbered properties that are unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare pursuant to § 8-12-16.

Following discussion,

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

The bill (Com. Sub. for S. B. 42), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 53**, Providing person criminally responsible for another's death may not be involved in burial arrangements.

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

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Senate Bill 396**, Providing limitations on nuisance actions against fire department or EMS fixed sirens.

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

The Senate proceeded to the tenth order of business.

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 80**, Allowing for administration of certain small estates by affidavit and without appointment of personal representative.

And,

**Eng. House Bill 2019**, Elevating Economic Development and Tourism Departments.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Maynard and Lindsay.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Hamilton, unanimous consent being granted, it was ordered that the Journal show had Senator Hamilton been present in the chamber on Monday, February 22, 2021, he would have voted "yea" on the passage of Engrossed Committee Substitute for Senate Bill 66, Engrossed Senate Bill 69, Engrossed Committee Substitute for Senate Bill 280, Engrossed Committee Substitute for Senate Bill 293, and Engrossed Committee Substitute for Senate Bill 295 and "nay" on the passage of Engrossed Committee Substitute for Senate Bill 11.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills on February 23, 2021:

**Senate Bill 124:** Senator Unger;

**Senate Bill 227:** Senator Unger;

**Senate Bill 309:** Senator Phillips;

And,

**Senate Bill 318:** Senator Nelson.

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 23, 2021:

**Senate Bill 2:** Senator Unger;

**Senate Bill 16:** Senator Hamilton;

**Senate Bill 19:** Senator Unger;

**Senate Bill 45:** Senator Unger;

**Senate Bill 58:** Senator Unger;

**Senate Bill 102:** Senators Hamilton and Phillips;

**Senate Bill 106:** Senator Unger;

**Senate Bill 111:** Senator Romano;

**Senate Bill 112:** Senator Romano;

**Senate Bill 114:** Senator Romano;

**Senate Bill 119:** Senator Romano;

**Senate Bill 120:** Senator Romano;

**Senate Bill 121:** Senator Romano;

**Senate Bill 225:** Senator Romano;

**Senate Bill 226:** Senator Romano;

**Senate Bill 228:** Senator Romano;

**Senate Bill 231:** Senators Caputo and Romano;

**Senate Bill 262:** Senator Romano;

**Senate Bill 288:** Senators Jeffries and Unger;

**Senate Bill 291:** Senator Romano;

**Senate Bill 292:** Senator Unger;

**Senate Bill 306:** Senators Unger and Nelson;

**Senate Bill 309:** Senator Unger;

**Senate Bill 310:** Senator Unger;

**Senate Bill 319:** Senator Nelson;

**Senate Bill 335:** Senator Unger;

**Senate Bill 338:** Senators Jeffries and Caputo;

**Senate Bill 339:** Senator Woodrum;

**Senate Bill 341:** Senator Rucker;

**Senate Bill 344:** Senator Nelson;

**Senate Bill 345:** Senator Unger;

**Senate Bill 346:** Senator Nelson;

**Senate Bill 347:** Senator Nelson;

**Senate Bill 359:** Senators Woodrum and Nelson;

**Senate Bill 361:** Senator Rucker;

**Senate Bill 365:** Senator Rucker;

**Senate Bill 384:** Senator Unger;

**Senate Bill 391:** Senator Rucker;

**Senate Bill 400:** Senator Plymale;

**Senate Bill 404:** Senator Ihlenfeld;

**Senate Bill 407:** Senator Phillips;

**Senate Bill 410:** Senators Stollings and Caputo;

**Senate Bill 412:** Senator Phillips;

**Senate Bill 416:** Senator Phillips;

**Senate Bill 417:** Senator Stollings;

**Senate Bill 419:** Senator Hamilton;

**Senate Bill 431:** Senator Woelfel;

**Senate Bill 432:** Senators Phillips, Unger, and Jeffries;

**Senate Joint Resolution 2:** Senator Unger;

**Senate Joint Resolution 5:** Senator Jeffries;

**Senate Joint Resolution 6:** Senator Jeffries;

**Senate Joint Resolution 9:** Senators Phillips, Hamilton, Caputo, Unger, Stollings, and Baldwin;

**Senate Concurrent Resolution 6:** Senators Unger, Smith, and Jeffries;

**Senate Concurrent Resolution 7:** Senators Unger and Jeffries;

And,

**Senate Concurrent Resolution 8:** Senators Phillips, Unger, and Stollings.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:16 p.m., the Senate adjourned until tomorrow, Thursday, February 25, 2021, at 11 a.m.

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## **SENATE CALENDAR**

**Thursday, February 25, 2021  
11:00 AM**

### **UNFINISHED BUSINESS**

- S. C. R. 6 - US Navy Seaman 2nd Class Wilbur 'Webb' Hahn and John W. Hahn Memorial Bridge
- S. C. R. 9 - Haynie Family Veterans Memorial Bridge
- S. R. 9 - Designating February 25, 2021, as Fairmont State University Day

### **THIRD READING**

- Eng. Com. Sub. for S. B. 7 - Limiting political activity by public employees
- Eng. Com. Sub. for S. B. 42 - Creating Zombie Property Remediation Act of 2021
- Eng. S. B. 396 - Providing limitations on nuisance actions against fire department or EMS fixed sirens

### **SECOND READING**

- Com. Sub. for S. B. 53 - Providing person criminally responsible for another's death may not be involved in burial arrangements
- Com. Sub. for S. B. 80 - Allowing for administration of certain small estates by affidavit and without appointment of personal representative
- Eng. H. B. 2019 - Elevating Economic Development and Tourism Departments (original similar to SB274)

### **FIRST READING**

- S. B. 16 - Providing continued eligibility for developmental disability services to dependents of military members
- S. B. 308 - Modifying requirement that racetrack participate in WV Thoroughbred Development Fund by certain date
- Com. Sub. for S. B. 321 - Clarifying and updating language regarding Fairmont State alumni license plates
- S. B. 338 - Creating Fire Service Equipment and Training Fund
- S. B. 358 - Removing prohibition on ATMs located in area where racetrack video lottery machines are located (original similar to HB2628)
- S. B. 374 - Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies

Com. Sub. for S. B. 377 - Relating to extension for boil water advisories by water utility or public service district

Com. Sub. for S. B. 389 - Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency (original similar to HB2683)

Eng. Com. Sub. for H. B. 2012 - Relating to public charter schools - (Com. amends. and title amend. pending)

Eng. H. B. 2262 - Relating to the controlled substance monitoring database - (Com. amends. pending)



**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2021**

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**Thursday, February 25, 2021**

9:30 a.m.

Finance

(Room 451M)