

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE  
REGULAR SESSION, 2021  
TENTH DAY

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Charleston, West Virginia, Friday, February 19, 2021

The Senate met at 11:01 a.m.

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

Prayer was offered by the Honorable Ryan W. Weld, a senator from the first district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael A. Woelfel, a senator from the fifth district.

Pending the reading of the Journal of Thursday, February 18, 2021,

At the request of Senator Hamilton, 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 2007**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-17-1, §21-17-2, §21-17-3, §21-17-4, §21-17-5, §21-17-6, §21-17-7, §21-17-8, §21-17-9, §21-17-10, §21-17-11, §21-17-12, and §21-17-13; to amend said code by adding thereto a new article, designated §29-33-1, §29-33-2, §29-33-3, §29-33-4, §29-33-5, §29-33-6, §29-33-7, §29-33-8, §29-33-9, §29-33-10, §29-33-11, §29-33-12, and §29-33-13; to amend said code by adding thereto a new article, designated §30-1F-1, §30-1F-2, §30-1F-3, §30-1F-4, §30-1F-5, §30-1F-6, §30-1F-7, §30-1F-8, §30-1F-9, §30-1F-10, §30-1F-11, §30-1F-12, and §30-1F-13, all relating to occupational licensing or other authorization to practice; providing for definitions; providing for an application method for persons with a valid license in another state to be licensed in this state; providing that a person applying for licensure in this state has worked in the licensed occupation for at least one year; providing for other criteria a person must satisfy when applying for licensure in this state; establishing that an applicant seeking licensure in this state not have ever had a license revoked or suspended in another state; providing that an applicant seeking licensure in this state not have any pending investigations or

disciplinary proceedings in another state; providing that the boards in every state where a person is licensed hold the applicant in good standing for licensure in this state; providing that an applicant pay all applicable fees; providing that an applicant meet all state bonding requirements for licensure in this state; providing for an application fee that may be assessed by the board; providing for 60 days for a board to take action on a completed application; providing for an appeal mechanism for a person to appeal any decision of a board relating to occupational licensure; providing for state law preemption against any township, municipality, county, or other government to regulate occupational licensure; and providing for rulemaking authority to any board affected to carry out the provisions of the article.

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

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 7**, Limiting political activity by public employees.

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

**Com. Sub. for Senate Bill 7** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §6B-4-1, §6B-4-2, §6B-4-3, and §6B-4-4, all relating to a limitation on political activity by public employees and public officials; setting forth legislative purpose and findings; defining terms; providing exceptions; prohibiting political activity by public employees and public officials in certain limited circumstances; and establishing violations and penalties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Economic Development has had under consideration

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

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

**Com. Sub. for Senate Bill 42** (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-22, relating to foreclosure actions involving abandoned properties; authorizing a municipality to commence a proceeding in a court of competent jurisdiction in the county in

which the property is located to compel a foreclosure; defining “vacant and abandoned property”; designating the Zombie Property Remediation Act of 2021; and requiring conveyance of the deed following foreclosure

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,  
*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 67**, Relating to authority of Emergency Medical Services Advisory Council.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

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

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

**Com. Sub. for Senate Bill 79** (originating in the Committee on the Judiciary)—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.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Education has had under consideration

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

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bills 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, and 215**, Commissioner of Agriculture rule relating to animal disease control.

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

**Com. Sub. for Senate Bill 182** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-9-1 et seq of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia Seed Law; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to inspection of meat and poultry; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to a seed certification program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia exempted dairy farms and milk and milk products processing rules; authorizing the Auditor to promulgate a legislative rule relating to standards for requisitions for payment issued by state officers on the Auditor; authorizing the Funeral Service Examiners to promulgate a legislative rule relating to funeral director, embalmer, apprentice, courtesy card holders and funeral establishment requirements; authorizing the Funeral Service Examiners to promulgate a legislative rule relating to crematory requirements; authorizing the Funeral Service Examiners to promulgate a legislative rule relating to a fee schedule; authorizing the Hearing Aid Dealers to promulgate a legislative rule relating to governing the West Virginia Board of Hearing Aid Dealers; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to registration of landscape architects; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Livestock Care Standards Board to promulgate a legislative rule relating to livestock care standards; authorizing the Board of Medicine to promulgate a legislative rule relating to registration to practice during declared state of emergency; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to telehealth practice requirements, and definitions; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to emergency temporary permits to practice

during states of emergency or state of preparedness; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for continuing education for licensure of pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure of wholesale drug distributors, third-party logistics providers, and manufacturers; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Controlled Substances Monitoring Program; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy Rules for immunizations administered by pharmacists and pharmacy interns; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for physical therapist and physical therapist's assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist's assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for athletic trainers; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to examination and licensing of professional surveyors in West Virginia; authorizing the Real Estate Commission to promulgate a legislative rule relating to licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to criteria for licensure; authorizing the Secretary of State to promulgate a legislative rule relating to loan and grants programs under the Help America Vote Act (HAVA) for the purchase of voting equipment, election systems, software, services, and upgrades; authorizing the Secretary of State to promulgate a legislative rule relating to guidelines and standards for electronic notarizations; and authorizing the Board of Senior Services to promulgate a legislative rule relating to a shared table initiative for senior citizens.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*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 270**, Providing for collection of tax by hotel marketplace facilitators.

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

**Com. Sub. for Senate Bill 270** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-18-3 and §7-18-4 of the Code of West Virginia, 1931, as amended, all relating to taxation of hotel rooms booked through a marketplace facilitator; defining “marketplace facilitator”; providing for collection and remittance of the hotel occupancy tax imposed by any municipality or county by certain marketplace facilitators; making marketplace facilitators satisfying certain economic nexus requirements responsible for collection and remittance of the tax imposed by any county or municipality; requiring the marketplace facilitator to separately state the tax on all bills, invoices, accounts, books of account, and records relating

to consideration paid for the occupancy or use of a hotel room; deeming all taxes collected be held in trust by the marketplace facilitator until remitted; and permitting marketplace facilitators and hotels or hotel operators to enter into agreements regarding fulfillment of the requirements of the chapter.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 275** (originating in the Committee on the Judiciary), Relating generally to WV Appellate Reorganization Act of 2021.

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

**Com. Sub. for Com. Sub. for Senate Bill 275** (originating in the Committee on Finance)—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-2D-16a; to amend said code by adding thereto a new section, designated §23-1-1h; to amend and reenact §23-5-1, §23-5-3, §23-5-5, §23-5-6, §23-5-8, §23-5-9, §23-5-10, §23-5-11, §23-5-12, §23-5-13, §23-5-15, and §23-5-16 of said code; to amend said code by adding thereto twelve new sections, designated §23-5-1a, §23-5-3a, §23-5-5a, §23-5-6a, §23-5-8a, §23-5-8b, §23-5-9a, §23-5-10a, §23-5-11a, §23-5-12a, §23-5-13a, and §23-5-16a; to amend and reenact §29A-5-4 of said code; to amend and reenact §29A-6-1 of said code; to amend said code by adding thereto a new section, designated §51-2A-24; to amend and reenact §51-9-1a of said code; to amend said code by adding thereto a new article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12, and §51-11-13; and to amend and reenact §58-5-1 of said code, all relating generally to creating an Intermediate Court of Appeals; defining terms; providing that the Judicial Vacancy Advisory Commission assist initial and subsequent vacancies on the Intermediate Court of Appeals; clarifying meaning of quorum for Judicial Vacancy Advisory Commission; transferring jurisdiction over appeals of decisions of the Health Care Authority in certificate-of-need reviews from the Workers' Compensation Office of Administrative Law Judges and Circuit Court of Kanawha County to the Intermediate Court of Appeals; establishing procedures and time frames for transfer or disposition of unresolved appeals pending with the Office of Judges; transferring jurisdiction over all workers' compensation claims and transferring all powers and duties related thereto from the Office of Judges to the Workers' Compensation Board of Review by a date certain; providing for additional two members to Workers' Compensation Board of Review; providing for modified procedure to appoint members to Workers' Compensation Board of Review; conferring appellate jurisdiction over Office of Judges decisions and Board of Review decisions to the Intermediate Court of Appeals after a date certain; sunseting certain provisions relating to duties and procedures of the Office of Judges with respect to workers' compensation claims; modifying duties and procedures of Board of Review with respect to workers' compensation claims; terminating the Office of Judges by a date certain; authorizing the Board of Review to employ hearing examiners and other necessary personnel;

establishing qualifications for hearing examiners hired by the Board of Review; setting forth powers of the Board of Review relating to workers' compensation claims; providing for reports requested by the Insurance Commissioner to be made by the chair of the Board of Review; providing for oversight and administrative authority of the Insurance Commissioner over the Board of Review; authorizing the Board of Review to promulgate procedural rules; granting due consideration and an interview to employees of the Office of Judges who apply for positions with the Board of Review on or before a date certain and directing the Board of Review that such consideration and interview prior to considering any other applicant; authorizing the Board of Review to hire attorneys as hearing examiners; requiring that all orders and decisions of the Board of Review pertaining to an objection be issued and signed by a single member of the Board of Review, with certain exceptions; permitting the board of review member assigned to an objection to delegate certain duties to a hearing examiner; establishing the administrative powers and duties of the Board of Review; increasing the limit on the annual salary of a Board of Review member; authorizing the board of review to promulgate rules of practice and procedure, and establishing a process therefor; establishing duties of the chair of the Board of Review; providing that the administrative expenses of the Board of Review shall be included in annual budget of the Insurance Commissioner; providing that petitions for review of final decisions of the Workers' Compensation Board of Review must be made to the Intermediate Court of Appeals; establishing certain procedures and other requirements for appeals of Board of Review decisions made to the Intermediate Court of Appeals; providing that the Supreme Court of Appeals has discretion to review final decisions of the Intermediate Court of Appeals in workers' compensation claims; requiring that appeal of contested cases under the State Administrative Procedures Act be made to the Intermediate Court of Appeals; transferring jurisdiction to review family court final orders from circuit courts to the Intermediate Court of Appeals; creating an Intermediate Court of Appeals in West Virginia to be established and operable by a date certain; providing a short title; providing legislative findings; defining terms; establishing and defining two districts of the Intermediate Court of Appeals; requiring each district of the Intermediate Court of Appeals to conduct proceedings as a three-judge panel; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; providing for the location of proceedings of the Intermediate Court of Appeals; excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing that parties to an appeal in the Intermediate Court of Appeals shall have an opportunity for a full and meaningful review on the record of the lower tribunal and an opportunity to be heard; establishing a procedure by which parties to an appeal in the Intermediate Court of Appeals may file a motion for direct review of an appeal by the Supreme Court of Appeals in certain extraordinary circumstances; providing eligibility criteria for judges of the Intermediate Court of Appeals; providing a process for initial appointment of judges to the Intermediate Court of Appeals to fill vacancies in the Intermediate Court of Appeals upon its creation; providing for an initial election of judges to the Intermediate Court of Appeals for staggered terms; providing for the regular election of a judge to each district of the Intermediate Court of Appeals upon the expiration of a sitting judge's term; establishing a procedures for the filling of vacancies in unexpired judicial terms by appointment and in certain circumstances, subsequent election; providing that the Governor's judicial appointments must be made from a list of candidates submitted by the Judicial Vacancy Advisory Commission and are subject to advice and consent of the Senate; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected public office during the judicial term; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may take effect; authorizing filing fees; providing for deposit of filing fees in a special revenue account to fund the State Police Forensic Laboratory; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority over the Intermediate Court of Appeals; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring

that appeals to the Intermediate Court of Appeals and related filings be filed with the Clerk of the Supreme Court of Appeals; providing that Intermediate Court of Appeals proceedings shall take place in publicly available facilities as arranged by the Administrative Director of the Supreme Court of Appeals; granting the Intermediate Court of Appeals discretion to require oral argument; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for lower courts; providing that the Intermediate Court of Appeals shall issue written decisions as a matter of right; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for reimbursement of expenses of Intermediate Court of Appeals staff; providing internal effective dates; removing obsolete language from the code; and making technical corrections to the code.

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

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 296**, Relating generally to repealing certain rules.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Rules has had under consideration

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

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

Respectfully submitted,

Craig Blair,  
*Chair ex officio.*



The Senate proceeded to the sixth order of business.

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

**By Senator Grady:**

**Senate Bill 361**—A Bill to amend and reenact §62-12-26 of the Code of West Virginia, 1931, as amended, relating to required extended supervised release of those convicted of soliciting a minor or convicted of using obscene material with intent to seduce a minor.

Referred to the Committee on the Judiciary.

**By Senator Smith:**

**Senate Bill 362**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-10A-1, §22-10A-2, §22-10A-3, §22-10A-4, §22-10A-5, §22-10A-6, §22-10A-7, §22-10A-8, §22-10A-9, and §22-10A-10, all relating to creating the Orphan Oil and Gas Well Prevention Act; providing for a short title; providing for legislative findings and declarations; providing for restrictions to permit oil and natural gas wells, certain prohibitions, and requiring plugging assurance requirements; providing for limitations on the transfer of wells; providing for responsibility of previous operators to plug transferred wells; providing for different methods for operators to provide plugging assurance of wells, including for wells not producing in paying quantities; providing administrative and management responsibilities for the Chief of the Office of Oil and Gas and the State Treasurer regarding plugging assurance funds; providing clarifications regarding the duties of mineral and surface owners; providing for rule-making authority and severability; and providing an effective date.

Referred to the Committee on Energy, Industry, and Mining.

**By Senator Swope:**

**Senate Bill 363**—A Bill to amend and reenact §21-3D-3 and §21-3D-4 of the Code of West Virginia, 1931, as amended, all relating generally to certification requirements of crane operators; providing that crane operators may be certified by additional nationally recognized accredited agencies; and changing the written exam requirements for Class A and Class B certifications.

Referred to the Committee on the Workforce.

**By Senator Trump:**

**Senate Bill 364**—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; to amend and reenact §21-5-1 of said code; and to amend and reenact §21-5-3 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 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, 2021, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2021; 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; 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; removing the requirement that an assignment or order be acknowledged by the party making the same before a notary public or other official authorized to take acknowledgments; requiring that an assignment or order shall be in writing; and providing that the changes made to the assignment of wages during the regular session of the Legislature, 2021, apply to any written or oral contract or agreement entered into, modified, renewed, or extended on or after July 1, 2021, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2021.

Referred to the Committee on the Judiciary.

**By Senators Grady and Karnes:**

**Senate Bill 365**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-7B-1, §61-7B-2, §61-7B-3, and §61-7B-4, all relating to creating the West Virginia Firearms Protection Act; providing definitions; ensuring that state and local governments do not enforce federal firearms regulations or rules that are in conflict with the state code or that do not exist in state code; providing a criminal penalty for the violation of the terms of this article; and providing an effective date.

Referred to the Committee on the Judiciary.

**By Senator Karnes:**

**Senate Bill 366**—A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating to the home instruction exemption for compulsory school attendance; removing the requirement that the state board develop guidelines for homeschooling special education students; clarifying when a child is considered homeschooled; providing that a parent, guardian, or adult relative may provide home instruction; modifying the required annual assessment used to evaluate a child’s academic proficiency; removing the obligation to submit academic assessment results to a county by a certain date; providing that a child enrolled in more than three classes in public school be considered a full-time public school student; and making technical corrections.

Referred to the Committee on Education.

**By Senator Karnes:**

**Senate Bill 367**—A Bill to amend and reenact §59-3-1 of the Code of West Virginia, 1931, as amended, relating to requiring newspapers qualified to publish legal advertisements must accept advertisements for publication from political candidates without regard to content; and providing exceptions.

Referred to the Committee on the Judiciary.

**By Senator Swope:**

**Senate Bill 368**—A Bill to amend and reenact §22-15A-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §22-15A-30; and to amend and reenact §22-16-12 of said code, all relating to authorizing the Department of Environmental Protection to develop the Reclamation of Abandoned and Dilapidated Properties

Program to reclaim abandoned and dilapidated structures in order to improve West Virginia communities and to open new parcels for development; creating a special revenue fund; providing a statement of legislative findings and purpose; and permitting the payment of excess money from the Solid Waste Facility Closure Cost Assistance Fund into the Reclamation of Abandoned and Dilapidated Properties Program Fund.

Referred to the Committee on Economic Development.

**By Senator Azinger:**

**Senate Bill 369**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-19-1, relating to a civil action for social media censorship.

Referred to the Committee on the Judiciary.

**By Senator Swope:**

**Senate Bill 370**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-22-4; and to amend and reenact §21-1C-5 of said code, all relating to requiring certain documents that include records of wages be considered confidential; prohibiting governmental entity that requires private company contracting with, or seeking to contract with, a governmental entity for a construction project to submit any document that includes records of actual wages paid to employees from disclosing document or information contained therein to any other entity or person; permitting disclosure of such document or information to state or federal agency; providing that any such document containing records of actual wages paid to employees shall be considered confidential and proprietary and may not be considered a public record; defining “governmental entity”; defining contents of certified payroll document; providing that any document containing records of actual wages paid to employees filed or submitted pursuant to the West Virginia Jobs Act may not be disclosed by the Division of Labor or a public authority to any other entity or person other than to a state or federal agency; and providing that any document submitted or filed pursuant to the West Virginia Jobs Act that includes records of actual wages paid to employees or information contained therein shall be considered confidential and proprietary and may not be considered a public record.

Referred to the Committee on the Workforce.

**By Senators Clements and Swope:**

**Senate Bill 371**—A Bill to amend and reenact §17-3-2 of the Code of West Virginia, 1931, as amended, relating to the use of the State Road Fund for state road purposes.

Referred to the Committee on Finance.

**By Senator Trump:**

**Senate Joint Resolution 8**—Proposing an amendment to the Constitution of the State of West Virginia, amending section one, article V thereof, relating to providing that courts have no authority by mandamus, prohibition, contempt, or otherwise to interfere with the proceedings of the Legislature; restoring the constitutional principle giving life to the separation of powers as articulated in Syllabus Point 3 of the decision of the West Virginia Supreme Court of Appeals in the case of State ex rel. Holmes v. Clawges, 226 W. Va. 479, 702 S.E.2d 611; and nullifying Syllabus Point 3 of the decision of the West Virginia Supreme Court of Appeals in the case of State ex rel. Workman v. Carmichael, 241 W. Va.105, 819 S.E.2d 251 (2018); 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 Maynard offered the following resolution:

**Senate Concurrent Resolution 7**—Requesting the Division of Highways name bridge number 11-31-8, carrying Twelve Pole Creek Road/Old NW Railroad Bed Road 3/05 over West Fork Twelve Pole Creek west of Big Sang Kill Road in Mingo County, the “Ira ‘Noon’ Copley and Marie Copley Memorial Bridge”.

Whereas, Ira “Noon” Copley was born in 1926 in Wilsondale, West Virginia, to Lawrence and Nora Copley; and

Whereas, Ira “Noon” Copley attended Burch High School in Delbarton, West Virginia; and

Whereas, After graduating, Ira “Noon” Copley enlisted in the Navy on January 22, 1944; and

Whereas, Upon his release from the Navy on November 6, 1945, Ira “Noon” Copley returned home and drove a taxicab, worked on a sawmill, and eventually owned his own sawmill and lumber yard. He started High Spur Coal Company with Shorty Hartman of Logan, West Virginia, and started Lady K Coal in Dingess, West Virginia. Ira “Noon” Copley was an innovator and risk-taker. He developed what was then called a “coal tube”. Although many said his idea would not work, he built and successfully maintained the only two in this part of the country; and

Whereas, Ira “Noon” Copley was responsible for an ambulance service in Dingess, West Virginia, and, when funds didn’t come in as expected, he gave quietly every month to keep it going. He also provided land and helped to bring in a medical facility, through Logan General Hospital, which served the community of Dingess for many years; and

Whereas, Ira and Marie Copley not only made an impact in Dingess, by providing jobs and giving thousands of dollars to local churches, but their impact was felt in faraway places. They built the Han Young Theological Seminary in Seoul Korea. Ira “Noon” Copley’s last project before his death was to provide a landfill in order to clean up garbage and debris littered across Mingo, Logan, and Wayne counties. Unfortunately, with his untimely death, the project came to a halt; and

Whereas, Ira and Marie Copley touched many lives with their heart for giving and helping others; and

Whereas, Ira “Noon” Copley died on April 30, 1988, and Marie Copley died on March 19, 2018; and

Whereas, It is fitting that an enduring memorial be established to commemorate Ira “Noon” Copley and Marie Copley 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 11-31-8, carrying Twelve Pole Creek Road/Old NW Railroad Bed Road 3/05 over West Fork Twelve Pole Creek west of Big Sang Kill Road in Mingo County, the “Ira ‘Noon’ Copley and Marie Copley 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 “Ira ‘Noon’ Copley and Marie Copley 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.

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

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 372** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating to the practice of medicine and surgery or podiatry, establishing criteria for graduate clinical training residency programs when accreditation is not available for the fellowship’s field; and providing for other consideration for graduate clinical training based upon the approval of accredited residency programs in the same field.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 5**, Urging Congress call Article V convention to impose fiscal restraints on federal government.

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

**Senate Concurrent Resolution 6**, US Navy Seaman 2nd Class Wilbur ‘Webb’ Hahn and John W. Hahn 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 8**, Recognizing 149th anniversary of Glenville State College.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Stover, Rucker, and Romano regarding the adoption of Senate Resolution 8 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

**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 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.

**Eng. Com. Sub. for Senate Bill 272**, Relating to WV Employment Law Worker Classification Act.

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 272 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, Hamilton, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Stover, Unger, and Woelfel—13.

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. 272) 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 277**, Creating COVID-19 Jobs Protection Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 18, 2021, for amendments to be received on third reading, was reported by the Clerk.

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

On page six, section four, after line four, by adding the following proviso: *Provided, That the limitations on liability provided in this section shall not apply to any person, or any employee or agent thereof, who acts with actual malice or a conscious, reckless, and outrageous indifference to the health, safety, and welfare of others.*

Following discussion,

The question being on the adoption of Senator Lindsay's amendment to the bill, the same was put and did not prevail.

On motion of Senator Lindsay, the following amendment to the bill (Com. Sub. for S. B. 277) was next reported by the Clerk:

On page eight, section eight, line two, after the word "date" by striking out the period and adding the words "until the COVID-19 State of Emergency, declared on March 16, 2020, is terminated or rescinded."

Following discussion,

The question being on the adoption of Senator Lindsay's amendment to the bill, the same was put and did not prevailed.

There being no further amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 277 was then read a third time and put upon its passage.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 277 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—25.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, and Unger—9.

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. 277) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—25.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, and Unger—9.

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. 277) 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 11**, Declaring work stoppage or strike by public employees to be unlawful.

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

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

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

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

**Senate Bill 69**, Creating "Choose Life" special registration plate supporting adoption.

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

**Com. Sub. for Senate Bill 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 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.

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

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

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

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

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

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

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



On page nine, section eleven-a, line thirty-six, by striking out the word “subsection” and inserting in lieu thereof the word “section”;

And,

On page sixteen, section eight, line one hundred twenty-four, by striking out the word “director” and inserting in lieu thereof the word “authority”.

The bill (Com. Sub. for S. B. 295), 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 1**, Providing for parity of payment for telehealth services between service in-person and service provided through telehealth platform.

And,

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Maynard and Sypolt.

The Senate proceeded to the thirteenth order of business.

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 18, 2021:

**Senate Bill 2**: Senator Caputo;

**Senate Bill 46**: Senator Grady;

**Senate Bill 54**: Senator Grady;

**Senate Bill 67**: Senator Rucker;

**Senate Bill 79**: Senator Woelfel;

**Senate Bill 88**: Senator Grady;

**Senate Bill 94**: Senator Ihlenfeld;

**Senate Bill 270**: Senator Woodrum;

**Senate Bill 279**: Senator Martin;

**Senate Bill 287**: Senator Ihlenfeld;

- Senate Bill 307:** Senator Nelson;
- Senate Bill 309:** Senator Nelson;
- Senate Bill 315:** Senator Woelfel;
- Senate Bill 318:** Senator Nelson;
- Senate Bill 329:** Senator Stollings;
- Senate Bill 330:** Senator Stollings;
- Senate Bill 331:** Senator Stollings;
- Senate Bill 332:** Senators Grady, Smith, Rucker, and Phillips;
- Senate Bill 333:** Senator Rucker;
- Senate Bill 334:** Senator Grady;
- Senate Bill 335:** Senator Grady;
- Senate Bill 336:** Senator Phillips;
- Senate Bill 337:** Senators Karnes and Swope;
- Senate Bill 338:** Senator Stollings;
- Senate Bill 339:** Senator Smith;
- Senate Bill 340:** Senators Smith and Hamilton;
- Senate Bill 341:** Senators Roberts, Smith, and Swope;
- Senate Bill 343:** Senators Smith and Ihlenfeld;
- Senate Bill 344:** Senators Woelfel and Plymale;
- Senate Bill 345:** Senators Roberts and Ihlenfeld;
- Senate Bill 346:** Senators Smith and Ihlenfeld;
- Senate Bill 347:** Senators Beach and Ihlenfeld;
- Senate Bill 348:** Senator Roberts;
- Senate Bill 349:** Senator Roberts;
- Senate Bill 350:** Senator Roberts;
- Senate Bill 351:** Senators Roberts, Smith, Clements, and Martin;

**Senate Bill 353:** Senators Swope and Plymale;

**Senate Bill 355:** Senators Stollings and Ihlenfeld;

**Senate Bill 356:** Senator Stollings;

**Senate Bill 357:** Senator Rucker;

**Senate Bill 358:** Senator Nelson;

**Senate Bill 359:** Senator Stollings;

**Senate Bill 360:** Senators Roberts and Ihlenfeld;

**Senate Joint Resolution 1:** Senator Hamilton;

**Senate Joint Resolution 5:** Senators Rucker and Clements;

**Senate Joint Resolution 6:** Senators Clements and Rucker;

**Senate Joint Resolution 7:** Senators Roberts, Rucker, Phillips, and Nelson;

**Senate Concurrent Resolution 5:** Senators Grady and Rucker;

**Senate Concurrent Resolution 6:** Senator Phillips;

**Senate Resolution 6:** Senator Hamilton;

And,

**Senate Resolution 8:** Senators Roberts, Plymale, Clements, Rucker, Lindsay, Caputo, and Hamilton.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 12:56 p.m., the Senate adjourned until Monday, February 22, 2021, at 11 a.m.

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## **SENATE CALENDAR**

**Monday, February 22, 2021  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 7 - Ira "Noon" Copley and Marie Copley Memorial Bridge

S. R. 6 - Adopting special rule of order relating to proxy voting due to COVID-19 pandemic

### **THIRD READING**

Eng. Com. Sub. for S. B. 11 - Declaring work stoppage or strike by public employees to be unlawful

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

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

Eng. S. B. 69 - Creating "Choose Life" special registration plate supporting adoption

Eng. Com. Sub. for S. B. 280 - Relating to e-commerce modernization

Eng. Com. Sub. for S. B. 293 - Clarifying that Economic Development Authority is not authorized to enter into banking contracts without State Treasurer approval

Eng. Com. Sub. for S. B. 295 - Relating generally to economic development loans and loan insurance issued by state (original similar to HB2018)

### **SECOND READING**

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

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

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

### **FIRST 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

NO COMMITTEE MEETING ANNOUNCEMENTS