

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE  
REGULAR SESSION, 2021  
THIRTY-SIXTH DAY

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Charleston, West Virginia, Wednesday, March 17, 2021

The Senate met at 11:03 a.m.

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

Prayer was offered by the Honorable Stephen Baldwin, a senator from the tenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mike Caputo, a senator from the thirteenth district.

Pending the reading of the Journal of Tuesday, March 16, 2021,

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

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

The Senate then proceeded to the third order of business.

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

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

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

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

On page 2, section 113, line 33, after the words "or is" by inserting the following: "an out-of-school time, summer recreation camp or day camp program"

And

On page 2, section 113, line 42, as follows: after the words “church school” by striking the word who and replacing it with the word “that”

And

On page 2, section 113, line 43 by adding the following:

(10) Any school education program which is operated by a grantee under 42 USC 9801, *et seq.*, the federal Head Start Program. *Provided*, That these programs are required to continue to perform criminal background checks on all employees with a service that includes a RAP back system.

And

On page 3, section 113, line 50 after the words “All facilities or programs” inserting the following: “with the exception of programs operated by county parks and recreation commissions, boards and municipalities” ;

On page 3, section 113, line 50, by striking the words “with the exception of programs operated by county parks and recreation commissions, boards and municipalities”;

And,

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

**Eng. Senate Bill 89**—A Bill to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to exempting from licensure requirements certain education programs operated by private schools with accredited preschool classes and certain recognition by Department of Education, adding language clarifying what programs operated by county parks and recreation departments are exempt from licensure requirements, and exempting certain school programs operated under 42 USC 9801, the federal Head Start Program, from licensure requirements.

On motion of Senator Rucker, the following amendment to the House of Delegates amendments to the bill (Eng. S. B. 89) was reported by the Clerk and adopted:

On page three, section one hundred thirteen, after line forty-three by striking out all of subdivision (10) and inserting in lieu thereof a new subdivision (10), to read as follows:

(10) Any school education program which is operated by a grantee under 42 U.S.C. § 9801 *et seq.*, the federal Head Start Program: *Provided*, That these programs are required to continue to perform criminal background checks on all employees in accordance with federal requirements.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 89, as amended, was then 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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 89) passed with its House of Delegates amended title.

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

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

**Senate Concurrent Resolution 15**, Extending certain leases between US Army Corps of Engineers and Nicholas County Airport Authority.

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

**Eng. Com. Sub. for House Bill 2011**, Eliminating any time requirements for part time personnel to work during a working year.

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 2379**—A Bill to amend and reenact §61-8-28 of the Code of West Virginia, 1931, as amended, relating to the offense of criminal invasion of privacy by visual portrayal; changing the offense from a misdemeanor to a felony and increasing the penalties for this offense.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2770**—A Bill to amend and reenact §30-29-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-11a of said code; and, to amend and reenact §62-11B-7a of said Code; all relating to the status of home incarceration supervisors; including home incarceration supervisors in definition of law-enforcement officers; authorizing home incarceration supervisors to carry a concealed firearm in certain facilities limited to other law-enforcement officers; authorizing home incarceration supervisors to carry firearms while performing their duties if their county has adopted a concealed firearms training program that complies with federal law enforcement training requirements; and, providing for training to enable home incarceration supervisors to fully qualify as law enforcement officers if they have not previously done so.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 2776**—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-11B-1, §33-11B-2, §33-11B-3, §33-11B-4, §33-11B-5, §33-11B-6, and §33-11B-7, relating to the creation of the Air Ambulance Patient Protection Act, declaring that an air ambulance service provider who solicits air ambulance membership subscriptions, accepts membership applications, or charges membership fees, is an insurer and shall be regulated by the commissioner, including an air ambulance patient bill of rights, providing for certain patient disclosures and consumer protections regarding existing coverage for air ambulance services, out-of-pocket costs or cost-sharing, advising patients of his or her rights pursuant to Section 105 of the federal No Surprises Act, providing for rulemaking by the commissioner, and providing for severability and internal effective dates.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 2888**—A Bill to amend and reenact §53-4A-1 of the West Virginia Code, 1931, as amended, relating to clarifying when a contention is adjudicated; defining forensic scientific evidence; and providing that no additional liabilities are created.

Referred to the Committee on the Judiciary.

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

**House Concurrent Resolution 8**—Requesting the Division of Highways name bridge number 20-79-9.20 NB and SB, carrying Interstate 79 over Little Sandy near Elkview in Kanawha County, the “U. S. Army SFC Guy R. Hively Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 13**—Requesting the Division of Highways name bridge number 22-037/00-004.35 (22A059), (38.10346, -82.17775) locally known as East Fork Bridge, carrying WV 37 over East Fork in Lincoln County, the “U. S. Army TEC5 Donald “Tiny” Lucas Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 16**—Requesting the Division of Highways name a portion of WV Route 37, known as East Lynn Road, in Lincoln County, from the Lincoln County line a distance of 4.39 miles, to its intersection with WV Route 10, the “U. S. Army PFC Franklin Delano Frazier Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 32**—Requesting the Division of Highways name the entire length of road designated as County Route 9 and County Route 14 in Fayetteville, situated in Fayette County, West Virginia, locally known as “Gatewood Road,” as the “Senator Shirley Love Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

### **Executive Communications**

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



*Jim Justice*  
*Governor of West Virginia*

March 16, 2021

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

Dear Mr. Clerk:

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

Committee Substitute for Senate Bill No. Twelve (12), which was presented to me on March 10, 2021.

Committee Substitute for Senate Bill No. Two Hundred Sixteen (216), which was presented to me on March 15, 2021.

Committee Substitute for Senate Bill No. Three Hundred Forty-Five (345), which was presented to me on March 10, 2021.

Senate Bill No. Three Hundred Fifty-Eight (358), which was presented to me on March 10, 2021.

Senate Bill No. Four Hundred Fifty-Nine (459), which was presented to me on March 10, 2021.

You will note that I have approved these bills on March 16, 2021.

Sincerely,

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

Jim Justice  
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk

[CLERK'S NOTE: **Enr. Committee Substitute for Senate Bill 11** became law without the Governor's signature on March 16, 2021, under the provisions of Section 14, Article VII of the Constitution of West Virginia.]

The Senate proceeded to the fourth order of business.

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

Your Committee on Education has had under consideration

**Senate Bill 36**, Relating to WV Secondary School Activities Commission audits.

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

**Com. Sub. for Senate Bill 36** (originating in the Committee on Education)—A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Secondary School Activities Commission; prohibiting any rule of the commission from being enforced without the approval of the rule by the State Board of Education; requiring the commission to make the results of the annual audit of its funds available to the public; authorizing the Legislative Auditor, at reasonable and prudent intervals, to conduct performance audits of the commission to determine how well it is accomplishing its mission; and requiring an initial performance audit of the commission by December 1, 2022.

And,

**Senate Bill 636**, Requiring certain history and civics courses be taught in schools.

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

**Com. Sub. for Senate Bill 636** (originating in the Committee on Education)—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to imposing additional requirements for the courses required for all public, private, parochial, and denominational schools in the history of the State of West Virginia, the history of the United States, in civics, in the Constitution of the United States' and in the government of West Virginia; requiring the State Board of Education to consult with certain other entities in prescribing the courses of study; requiring the State Board of Education to include the basic course requirements for middle school and high school and the academic standards when prescribing the courses of study; requiring the State Board of Education to publish an approved list of instructional resources; requiring the State Board of Education to provide testing or assessment instruments for the history and civics courses of instruction; and expanding amendments to the Constitution of the United States to be emphasized as a part of the instruction in each social studies class required during Celebrate Freedom Week.

With the recommendation that the two committee substitutes do pass.

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

**Senate Bill 384**, Increasing minimum salaries for Bureau for Child Support Enforcement attorneys.

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 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 440**, Relating to requirements on abandoned or discontinued state highway or road.

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

**Com. Sub. for Senate Bill 440** (originating in the Committee on Transportation and Infrastructure)—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 certain records related to the discontinuance, vacating, or closing of any road or highway or part thereof; and requiring the Division of Highways to make virtual participation available to any person interested in participating in or attending any hearing related to such discontinuance, vacating, or closing.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The bill (Com. Sub. for S. B. 440), under the original double committee reference, was then referred to the Committee on Finance.

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 509**, Removing requirement that determination of medical stability be found prior to admission to mental health facility.

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

**Com. Sub. for Senate Bill 509** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §27-5-3 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §27-5-3a, relating to involuntary hospitalization; requiring training by specified persons on medical causation for psychiatric disease with focus on medical conditions causing or contributing to psychiatric presentation; providing that magistrate or mental hygiene commissioner may determine individual be evaluated for medical condition; removing a requirement that a determination of medical stability be found prior to admission to a mental health facility; providing that a physical may be provided to the individual upon admission to the mental health facility; and providing that if after entry of order of involuntary hospitalization is entered the cause is determined to be medical rather than physical this shall not serve to make the person banned from possessing a firearm.

With the recommendation that the committee substitute 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 569**, Relating to damages for medical monitoring.

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

**Com. Sub. for Senate Bill 569** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32, relating to damages for medical monitoring; establishing requirements for an order for payment of medical monitoring expenses; providing that an increased risk of disease is not a compensable basis for damages in any civil action; providing that, where awarded, payment of medical monitoring expenses shall not be paid to a prevailing plaintiff until the procedure is completed; requiring that, where awarded, defendants pay medical monitoring expenses into a fund established by the court for that purpose; and providing for the return of any money remaining in the fund after medical monitoring is no longer required to the defendants.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 614**, Including family court judges in Judges' Retirement System.

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

**Com. Sub. for Senate Bill 614** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §51-2A-4 of the Code of West Virginia, 1931, as amended, to amend and reenact §51-2A-6 of said code, and to amend and reenact §51-9-1a of said code, all relating to including family court judges in the Judges' Retirement System.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. 614), under the original double committee reference, was then referred to the Committee on Finance.

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 16**, USMC Corporal Roger Lee Boothe Memorial Road.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Eng. Com. Sub. for House Bill 2024**, Expand use of telemedicine to all medical personnel.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,  
*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

**Eng. House Bill 2701**, Relating to authorizing the Division of Rehabilitation Services to approve acceptable training programs required for low vision individuals to obtain a Class G drivers license.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Eng. House Bill 2788**, Expiring funds to the unappropriated surplus balance from State Excess Lottery Revenue Fund.

**Eng. Com. Sub. for House Bill 2789**, Supplementing and amending the appropriations to Public Defender Services.

**Eng. Com. Sub. for House Bill 2802**, Supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Homeland Security, Division of Emergency Management.

**Eng. Com. Sub. for House Bill 2803**, Supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Commerce, Division of Forestry.

And,

**Eng. House Bill 2804**, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2021.

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

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

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

**Senate Bill 645**—A Bill supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing existing items of appropriation from the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511 and from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2021, organization 0506, and increasing an existing item of appropriation to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511, by supplementing and amending appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Senate Bill 646**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Homeland Security, Division of Administrative Services, fund 8803, fiscal year 2021, organization 0623, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Senate Bill 647**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Homeland Security, Department of Homeland Security – Office of the Secretary – Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund, fund 6003, fiscal year 2021, organization 0601, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Senate Bill 648**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2021, to the Division of Human Services – Child Care and Development, fund 8817, fiscal year 2021, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

**By Senators Caputo and Lindsay:**

**Senate Bill 649**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16A-17-1, §16A-17-2, §16A-17-3, §16A-17-4, §16A-17-5, §16A-17-6, §16A-17-7, §16A-17-8, and §16A-17-9, all relating to legalizing cannabis production, sales, and adult consumption; providing legislative purpose and findings; defining terms; legalizing the possession of one ounce or less of cannabis and cannabis products by adults; authorizing production, sales, transfer, and transport of cannabis upon passing county referendums; providing procedure for county commissions to authorize county referendum on

legislation of production and sales; establishing mechanisms for permitting and licensing production and sales facilities by the Bureau for Public Health and localities; authorizing the Bureau for Public Health to promulgate rules, establish licensing and administrative penalties relating to the production, sales, transfer, and transport of cannabis in authorizing counties; authorizing the Department of Revenue to promulgate rules and administer tax collections; authorizing localities to regulate manufacturing and sales locations; authorizing a special excise tax on cannabis; creating a new fund and dedicating proceeds of the fund; authorizing county local sales tax to be collected and used for the benefit of county and municipal governments; providing current laws relating to employment, vehicle operation, underage use, or private property use preserved; and establishing that the operation of this article is not intended to alter the West Virginia Medical Cannabis Act.

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

**By Senators Stover, Azinger, Grady, Karnes, Martin, Maynard, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Tarr, and Woodrum:**

**Senate Bill 650**—A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to permitting persons who have been issued state licenses to carry concealed deadly weapons on the grounds of the State Capitol Complex, except for the third and fourth floors of the east wing of Building One.

Referred to the Committee on the Judiciary.

**By Senator Rucker:**

**Senate Bill 651**—A Bill to amend and reenact §18-9-3a of the Code of West Virginia, 1931, as amended, relating to giving county boards of education the option of publishing their financial statements on their websites rather than publishing as a Class I-0 legal advertisement.

Referred to the Committee on Education.

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

**Senate Bill 652**—A Bill supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing an existing item of appropriation from the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511 and adding a new item of appropriation to the Department of Health and Human Resources, Department of Health and Human Resources - Office of the Secretary, fund 0400, fiscal year 2021, organization 0501, by supplementing and amending appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Senate Bill 653**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Health and Human Resources, Division of Health – Central Office, fund 8802, fiscal year 2021, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Senate Bill 654**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Commerce, Geological and Economic Survey, fund 8704, fiscal year 2021, organization 0306, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

**By Senator Swope:**

**Senate Bill 655**—A Bill to amend and reenact §24A-2-2b of the Code of West Virginia, 1931, as amended, relating to cancelling a review of Public Service Commission rules relating to recovering, hauling, and storing wrecked or disabled vehicles; and eliminating a sunset requirement on those rules.

Referred to the Committee on the Judiciary.

**By Senator Swope:**

**Senate Bill 656**—A Bill to amend and reenact §24A-5-2a of the Code of West Virginia, 1931, as amended, relating to use of a federal index in setting rates for collection and haulage of solid waste; mandating that the Public Service Commission calculate year over year percentage increase from the adjusted federal index; adjusting reference dates; and providing for notice and order for the amount by which rates will be adjusted.

Referred to the Committee on Government Organization.

**By Senators Phillips, Azinger, Rucker, Smith, Sypolt, Tarr, and Woodrum:**

**Senate Bill 657**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-34-1, §18-34-2, §18-34-3, §18-34-4, §18-34-5, §18-34-6, §18-34-7, §18-34-8, §18-34-9, §18-34-10, §18-34-11, §18-34-12, §18-34-13, and §18-34-14, all relating to the Forming Open and Robust University Minds (FORUM) Act; providing for legislative findings regarding the exercise of First Amendment rights on public university campuses in this state as being critical components of the education experience for students; providing for definitions; defining protected expressive activities; defining public forums and prohibiting “free speech zones;” establishing reasonable time, place, and manner restrictions; providing for the freedom of association; developing policies and procedures for the implementation of this article; providing for accountability to the public and remedies for violation of this article; giving immunity and providing for severability; and providing for an effective date.

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

**By Senator Grady:**

**Senate Bill 658**—A Bill to amend and reenact §7-26-2 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Sheriffs’ Bureau of Professional Standards working with the sheriffs of each county of the state to actively participate in and utilize all components of the Handle With Care Program to help trauma-inflicted children in the public or private school system.

Referred to the Committee on the Judiciary.

Senator Stollings offered the following resolution:

**Senate Concurrent Resolution 28**—Requesting the Division of Highways name bridge number 30-003/05-014.73 (30A291), locally known as Kirk Beam Span Bridge, carrying CR 3/5 over WEST FK TWELVEPOLE CK in Mingo County, the “U. S. Army PVT Thomas D. Beckett, Sr., Memorial Bridge”.

Whereas, Thomas D. Beckett, Sr., was born October 14, 1909, in Kirk, Mingo County, West Virginia, to John J. Beckett and Polly Bailey. He lost both of his parents at a young age and began working in the coal mines of southern West Virginia at the age of 14; and

Whereas, On June 18, 1935, Thomas D. Beckett, Sr., married Brookie Dillon in Logan County, West Virginia. Later, they settled in Peach Creek, Logan County. Thomas and his wife were the parents of 11 children.

Whereas, Around 1939, Thomas D. Beckett, Sr., moved his family to Kirk, Mingo County, West Virginia. Their home was located at Mudlick Branch. He continued working in the coal mines for several years. In 1940, Thomas D. Beckett, Sr., was employed by West Virginia Coal & Coke Corporation located in Omar, West Virginia. As a coal miner, he was injured several times; and

Whereas, Thomas D. Beckett, Sr., served in the U.S. Army during World War II. He served in Company D, 27th Medical Training Battalion at Camp Grant, Illinois, and received an honorable discharge on July 18, 1944. After returning home from the U.S. Army, PVT Thomas D. Beckett, Sr., was appointed Postmaster of Kirk, West Virginia, on May 15, 1946. He served in this capacity until the Kirk Post Office was closed on January 27, 1956. In Kirk, PVT Thomas D. Beckett, Sr., also ran a grocery store (Beckett Grocery) which began on the front porch of his home. Eventually, he built a small building which housed the post office and his store in front of his home at Mudlick Branch. Both Thomas and his wife took care of anyone who needed help in the community, allowing people to purchase groceries on credit and constantly lending a helping hand to his neighbors. He learned to become an auto mechanic at Charley White’s Garage at Dingess, West Virginia. He also served as a deacon at Bailey Baptist Church located in Kirk, West Virginia; and

Whereas, Around 1956, PVT Thomas D. Beckett, Sr., moved his family to Dunlow, Wayne County, where he operated another store which was ultimately lost to fire. He then used his auto mechanic training and opened an auto garage and filling station located across the road from his home; and

Whereas, On July 30, 1976, PVT Thomas D. Beckett, Sr., was struck by a car in front of his home at Dunlow, West Virginia, while walking across Route 152 to his garage. He was taken to Cabell Huntington Hospital where he passed away August 1, 1976, at the age of 66. PVT Thomas D. Beckett, Sr., was the first to be buried on what would become the Beckett Family Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army PVT Thomas D. Beckett, Sr., and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 30-003/05-014.73 (30A291), locally known as Kirk Beam Span Bridge, carrying CR 3/5 over WEST FK TWELVEPOLE CK in Mingo County, the “U. S. Army PVT Thomas D. Beckett, Sr., Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PVT Thomas D. Beckett, Sr., 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.

Senator Weld offered the following resolution:

**Senate Resolution 21**—Recognizing the anniversary of the tragic accident of the SS Sultana.

Whereas, The explosion of the SS Sultana on April 27, 1865, is considered the worst maritime disaster in American history; and

Whereas, The steamboat Sultana was one of the largest business steamers constructed with a capacity of 376 passengers plus crew members, when it launched from Litherbury Boatyard in Cincinnati, Ohio, on January 3, 1863. During the Civil War, the Sultana was frequently commissioned to carry troops and supplies due to its size and efficiency; and

Whereas, On April 24, 1865, during a stop at Vicksburg, Mississippi, a series of hasty repairs to the Sultana’s boilers were made, and nearly 2,000 Union soldiers, who had been recently released from the Confederate prison camps Andersonville and Cahaba, were crowded aboard for the trip north along the Mississippi River; and

Whereas, On April 27, 1865, at 2:00 a.m., the dangerously overloaded Sultana exploded and sank seven miles north of Memphis, Tennessee, in a massive conflagration of fire and flying shrapnel caused by the boat’s inadequately repaired boilers as the boat worked to overcome the strong currents of a flooded Mississippi River; and

Whereas, More than 1,100 of the nearly 2,200 passengers aboard lost their lives in the tragedy, including both initial survivors of the explosion who later died from burns, hypothermia, or exposure; and

Whereas, This disaster occurred 12 days following the assassination of President Abraham Lincoln and less than three weeks after the end of the Civil War. It received very little public attention and is scarcely remembered today; and

Whereas, Among the Union soldiers killed in this catastrophic accident, were 10 West Virginians: PVT Anthony Craig, Battery D, 1 WV Light Artillery; PVT William Cruddas, Co. L, 1 WV Cavalry; PVT John Hudson, Co. G, 65 Ohio Infantry, born in Berkeley County, WV; SGT James H. Lyons, Co. B, 6 WV Cavalry; PVT Alexander A. Manners, Co. K, 1 WV Infantry; PVT Thomas McGinnis, Co. F, 15 WV Infantry; PVT John Wesley Steele, Co. C, 5 WV Infantry; PVT Allen Ramsey C. Stephens, Battery D, 1 WV Light Artillery; PVT John D. Weihert, Co. F, 10 WV Infantry; and PVT John Welch, Co. K, 6 WV Cavalry; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the anniversary of the tragic accident of the SS Sultana; and, be it



*Further Resolved*, That the Senate, on the 156-year anniversary of the tragic accident of the SS Sultana, honors the memory of all soldiers and passengers who lost their lives in this disaster; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to Dr. Louis Intres, Director of the Sultana Disaster Museum in Marion, Arkansas.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 27**, Walker Brothers Veterans 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 20**, Recognizing Disability Advocacy Day.

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

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

The question being on the adoption of the resolution, and on this question, Senator Baldwin demanded the yeas and nays.

The roll being taken, 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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 20) adopted.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 297**, Relating generally to modernizing Board of Treasury Investments.

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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 297) 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 303**, Creating Local Government Labor and Consumer Marketing Regulatory Limitation Act.

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 303 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, and Blair (Mr. President)—20.

The nays were: Baldwin, Beach, Caputo, Hamilton, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, Woelfel, and Woodrum—13.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 303) passed.

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

**Eng. Com. Sub. for Senate Bill 303**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §8B-1-1, §8B-1-2, §8B-1-3, §8B-1-4, §8B-1-5, and §8B-1-6, all relating to creating the Local Government Labor Regulatory Limitation Act; prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, local resolutions, or other legal requirements; providing a short title; setting forth legislative findings and declarations; defining terms; providing areas in which political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement; establishing a civil cause of action which, if proven in a court of competent jurisdiction, may permit a person to obtain injunctive relief or any other appropriate equitable relief against any political subdivision violating the Local Government Labor Regulatory Limitation Act; providing exceptions; clarifying effect on prior written agreements; providing that any prohibited ordinance, regulation, local policy, local resolution, or other legal requirement in effect prior to the effective date of the act is void; providing that the prohibitions do not apply to employees of a political subdivision; and providing that the prohibitions do not prohibit a political subdivision from complying with the West Virginia Alcohol and Drug-Free Workplace Act or otherwise require similar drug and alcohol policies and testing of a political subdivision’s vendors.

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

**Eng. Senate Bill 391**, Relating to study of child protective services and foster care workforce.

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 391 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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 391) 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 431**, Relating to school attendance notification requirements to DMV.

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: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Azinger and Martin—2.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 431) 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 502**, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15.

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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 502) 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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 502) 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 House Bill 2008**, Amending requirements for licensure relating to elevator mechanics, crane operators, HVAC, electricians, and plumbers.

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 House Bill 2008 pass?”

At the request of Senator Plymale, unanimous consent being granted, Senator Plymale addressed the Senate regarding Engrossed Committee Substitute for House Bill 2008.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Karnes, Martin, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—17.

The nays were: Baldwin, Beach, Caputo, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Nelson, Phillips, Plymale, Romano, Stollings, Unger, and Woelfel—16.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2008) passed.

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

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

**Eng. Com. Sub. for House Bill 2008**—A Bill to repeal §21-3D-4, §21-3D-5, §21-3D-6, §21-3D-7, and §21-3D-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §21-3C-14; to amend and reenact §21-3D-1, §21-3D-2, §21-3D-3, and §21-3D-8 of said code; to amend and reenact §21-14-2 and §21-14-7 of said code; to amend and reenact §21-16-2, §21-16-3, §21-16-5, and §21-16-8 of said code; to amend said code by adding thereto a new section, designated §21-16-11; to amend and reenact §29-3B-2, §29-3B-3, §29-3B-4, §29-3B-6, and §29-3B-8 of said code; and to amend and reenact §29-3D-2, §29-3D-3, §29-3D-4, §29-3D-6, and §29-3D-7 of said code, all relating to licensure in this state; providing for state code precedence over local ordinances; providing for a national standard and national certification for crane operators; providing for legislative appropriation of the Crane Operators Certification Fund on a certain date; providing altered definitions of journeyman and master plumber; providing for monetary penalties for improperly performing plumbing work under certain conditions; providing altered definition of HVAC Technician; providing that an applicant for a HVAC technician license may only be required to provide documentation of up to 2,000 hours work, training, and experience; eliminating requirement that HVAC residential technicians furnish evidence of 2,000 hours of experience or training before being allowed to take examination; establishing monetary penalties for improperly performing HVAC work under certain conditions; providing veterans who meet certain conditions are eligible for HVAC technician licensure; providing for altered definitions of journeyman and master electricians; providing exemptions from licensure under certain conditions; providing for extended time frames for electricians to renew a license without retesting; providing for monetary penalties for improperly performing electrical work under certain conditions; providing for definitions of fire protection workers; providing for an altered definition of journeyman sprinkler fitter; providing exemption from licensure when meeting certain conditions; establishing monetary penalties for improperly performing fire protection work; and making other minor technical changes.

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

**Eng. Com. Sub. for House Bill 2013**, Relating to the Hope Scholarship Program.

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

(Senator Weld in the Chair.)

Pending extended discussion,

Senator Trump arose to a point of order stating that debate had digressed to a personal nature rather than the merits of the bill.

Which point of order, the Chair ruled well taken.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2013 pass?”

Senator Roberts requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

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

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

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—20.

The nays were: Baldwin, Beach, Caputo, Hamilton, Ihlenfeld, Jeffries, Lindsay, Nelson, Plymale, Romano, Stollings, Unger, and Woelfel—13.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2013) passed with its title.

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

**Eng. Com. Sub. for House Bill 2616**, Amend the reporting to the Governor and the Legislature to have information continuously available on the Office of Health Facility Licensure and Certification's website.

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 House Bill 2616 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, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2616) 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 562**, Relating to juvenile competency proceedings.

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 566**, Relating to interpretations of school laws.

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

**Eng. Com. Sub. for House Bill 2372**, Allow pre-candidacy papers to be filed the day after the general election.

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

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

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

### **CHAPTER 3. ELECTIONS.**

#### **ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.**

##### **§3-8-5e. Pre-candidacy financing and expenditures.**

(a) Notwithstanding any other provisions of this code, it is lawful for a person, otherwise qualified to be a candidate for any public office or position to be determined by public election, to receive contributions or make expenditures, or both personally or by another individual acting as a treasurer, to determine the advisability of becoming such a candidate or preparing to be such a candidate: *Provided*, That an individual may file his or her pre-candidacy papers, and may receive contributions and make expenditures related thereto, beginning on the day after the general election is held for the term of office immediately preceding the term of office for which the person may become a candidate, if such term of office is four years or less: *Provided, however*, That such pre-candidacy papers may be filed, such contributions may be received, and such expenditures may be made only during the four years immediately preceding the term of office for which such person may be a candidate or during the term of office immediately preceding the term for which such person may be a candidate, whichever is less, if such term of office is more than four years: *Provided, however, further*, That no person is disqualified from receiving contributions or making expenditures as permitted under the provisions of this section solely because such person then holds a public office or position.

(b) Any person undertaking to determine the advisability of becoming or preparing to be a candidate, who desires to receive contributions before filing a certificate of candidacy, shall designate himself or another individual to act as a treasurer and shall file a designation of treasurer in the manner provided in §3-8-4 of this code before receiving any contributions permitted by this section. Any expenditures made before the filing of a designation of treasurer shall be reported in accordance with the provisions of §3-8-5 of this code regardless of the source of funds used for such expenditures.

(c) A person who receives a contribution who is acting for and by himself or herself or as treasurer or agent for another pursuant to the provisions of this section shall keep detailed accounts of every sum of money or other thing of value received by him or her, and of all expenditures and disbursements made, and liabilities incurred, in the same manner as such accounts are required by §3-8-5 of this code.

(d) Regardless of whether such person becomes a candidate as originally intended, becomes a candidate for some office other than the office or position originally intended, or does not become a candidate, all limits on campaign contributions and campaign expenditures applicable to the candidacy of or advocacy of the candidacy of such person for the office he or she actually

seeks shall be applicable to and inclusive of the receipts had and expenditures made during such pre-candidacy period as well as after the person becomes a candidate.

The bill (Eng. Com. Sub. for H. B. 2372), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2682**, Relating to the issuance of license suspensions to insurance producers and insurance adjusters who have failed to meet continuing education requirements.

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

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

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

## **ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.**

### **§33-12-8. Continuing education required.**

The purpose of this ~~provision~~ section is to provide continuing education requirements under guidelines set up under the Insurance Commissioner's office ~~with the guidelines to be set up under in conjunction with the board~~ Board of Insurance Agent Education.

(a) This section applies to individual insurance producers licensed to engage in the sale of the following types of insurance:

(1) Life. — Life insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health or sickness. — Insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;

(3) Property. — Property insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) Casualty. — Insurance coverage against legal liability, including that for death, injury, or disability or damage to real or personal property;

(5) Variable life and variable annuity products. — Insurance coverage provided under variable life insurance contracts and variable annuities;

(6) Personal lines. — Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; and

(7) Any other line of insurance permitted under state laws or regulations.

(b) This section does not apply to:

(1) Individual insurance producers holding limited line credit insurance licenses for any kind or kinds of insurance offered in connection with loans or other credit transactions or insurance for



which an examination is not required by the commissioner, nor does it apply to any limited or restricted license as the commissioner may exempt; and

(2) Individual insurance producers selling credit life or credit accident and health insurance.

(c)(1) The Board of Insurance Agent Education as established by ~~section seven of this article §33-12-7 of this code~~ shall develop a program of continuing insurance education and submit the proposal for the approval of the commissioner on or before ~~the thirty-first day of December of each year~~ December 31 of each year. No program may be approved by the commissioner that includes a requirement that any individual insurance producer complete more than 24 hours of continuing insurance education biennially. No program may be approved by the commissioner that includes a requirement that any of the following individual insurance producers complete more than six hours of continuing insurance education biennially:

(A) Individual insurance producers who sell only preneed burial insurance contracts; and

(B) Individual insurance producers who engage solely in telemarketing insurance products by a scripted presentation which scripted presentation has been filed with and approved by the commissioner.

(C) The biennium mandatory continuing insurance education provisions of this section become effective on the reporting period beginning ~~the first day of July, two thousand six~~ July 1, 2006.

(2) The commissioner and the board, under standards established by the board, may approve any course or program of instruction developed or sponsored by an authorized insurer, accredited college or university, agents' association, insurance trade association, or independent program of instruction that presents the criteria and the number of hours that the board and commissioner determine appropriate for the purpose of this section.

(d) Individual insurance producers licensed to sell insurance and who are not otherwise exempt shall satisfactorily complete the courses or programs of instructions the commissioner may prescribe.

(e) Every individual insurance producer subject to the continuing education requirements shall furnish, at intervals and on forms as may be prescribed by the commissioner, written certification listing the courses, programs, or seminars of instruction successfully completed by the person. The certification shall be executed by, or on behalf of, the organization sponsoring the courses, programs, or seminars of instruction.

(f) Subject to the approval by the commissioner, the active annual membership by an individual insurance producer in an organization or association recognized and approved by the commissioner as a state, regional, or national professional insurance organization or association may be approved by the commissioner for up to two hours of continuing insurance education: *Provided*, That not more than two hours of continuing insurance education may be awarded to an individual insurance producer for membership in a professional insurance organization during a biennial reporting period. Credit for continuing insurance education pursuant to this subdivision may only be awarded to individual insurance producers who are required to complete more than six hours of continuing education biennially.

(g) Individual insurance producers who are required to complete more than six hours of continuing education biennially and who exceed the minimum continuing education requirement for the biennial reporting period may carry-over a maximum of six credit hours only into the next reporting period.

(h) Any individual insurance producer failing to meet the requirements mandated in this section and who has not been granted an extension of time, with respect to the requirements, or who has submitted to the commissioner a false or fraudulent certificate of compliance shall have his or her license automatically suspended and no further license may be issued to the person for any kind or kinds of insurance until the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements mandated by this section and all other applicable laws or rules.

(i) The commissioner shall notify the individual insurance producer of his or her suspension pursuant to §33-12-8(h) of this code by ~~certified electronic mail return receipt requested or regular mail, if requested,~~ to the last ~~address~~ respective address on file with the commissioner pursuant to ~~subsection (e), section nine of this article §33-12-9(f) of this code.~~ Any individual insurance producer who has had a suspension ~~order~~ notice entered against him or her pursuant to this section may, within 30 calendar days of receipt of the ~~order~~ notice, file with the commissioner a request for a hearing for reconsideration of the matter.

(j) Any individual insurance producer who does not satisfactorily demonstrate compliance with this section and all other laws applicable thereto as of the last day of the biennium following his or her suspension shall have his or her license automatically canceled and is subject to the education and examination requirements of ~~section five of this article §33-12-5 of this code.~~

(k) The commissioner is authorized to hire personnel and make reasonable expenditures considered necessary for purposes of establishing and maintaining a system of continuing education for insurers. The commissioner shall charge a fee of \$25 to continuing education providers for each continuing education course submitted for approval which shall be used to maintain the continuing education system. The commissioner may, at his or her discretion, designate an outside administrator to provide all of or part of the administrative duties of the continuing education system subject to direction and approval by the commissioner. The fees charged by the outside administrator shall be paid by the continuing education providers. In addition to fees charged by the outside administrator, the outside administrator shall collect and remit to the commissioner the \$25 course submission fee.

### **§33-12-9. Issuance of license.**

(a) Unless denied licensure pursuant to ~~article twenty-four of this chapter §33-12-24 of this code,~~ individuals who have met the requirements of ~~articles five and six of this chapter §33-12-5 and §33-12-6 of this code~~ shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health or sickness. — Insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;

(3) Property insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) Casualty. — Insurance coverage against legal liability, including that for death, injury, or disability or damage to real or personal property;

(5) Variable life and variable annuity products. — Insurance coverage provided under variable life insurance contracts and variable annuities;

(6) Personal lines. — Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(7) Credit. — Limited line credit insurance; or

(8) Any other line of insurance permitted under state laws or regulations.

(b) An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in ~~section thirteen, article three of this chapter~~ §33-3-13 of this code is paid and education requirements for resident individual producers are met by the due date.

(c) An individual insurance producer who allows his or her license to lapse may, within 12 months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.

(d) An individual licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance (e.g., a long-term medical disability) may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(e) The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, the expiration date, and any other information the Insurance Commissioner considers necessary.

(f) ~~Licensees shall inform the Insurance Commissioner by any means acceptable to the Insurance Commissioner of a change of address or residency within 30 days of the change. At the time of application for licensure, the applicant shall inform the Insurance Commissioner of the applicant's full name, physical and mailing address, if different, and electronic mail address. Each agent, insurance agency, solicitor, or service representative that is licensed on July 1, 2021, shall provide the Insurance Commissioner with the licensee's electronic mail address in connection with the next license renewal application of the respective licensee. If a change occurs to the licensee's name, physical address, mailing address, or electronic mail address after licensure, the licensee shall inform the Insurance Commissioner by any means acceptable to the Insurance Commissioner of the updated contact information within 30 days of the change.~~ Failure to timely inform the Insurance Commissioner of a change in legal name, residency, ~~or mailing address, or electronic mail address~~ may result in a penalty pursuant to ~~section twenty-four of this article~~ §33-12-24 of this code. The commissioner shall maintain the ~~mailing address of information provided pursuant to this subsection~~ for each agent, insurance agency, solicitor, and service representative on file.

(g) In order to assist in the performance of the Insurance Commissioner's duties, the Insurance Commissioner may contract with nongovernmental entities, including the ~~national association~~ National Association of Insurance Commissioner Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the Insurance Commissioner and the nongovernmental entity may consider appropriate.

## **ARTICLE 12B. ADJUSTERS.**

### **§33-12B-13. Continuing education.**

(a) The purpose of this section is to provide continuing education requirements for individual adjusters under guidelines established by the commissioner's office in conjunction with the Board of Insurance Agent Education as provided in §33-12-7 of this code.

(b) This section applies to company adjusters, independent adjusters, and public adjusters licensed pursuant to §33-12B-2 of this code.

(c) This section shall not apply to:

(1) Licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or

(2) Licensees holding nonresident adjuster licenses who have met substantially similar continuing education requirements of their designated home state and whose home state gives credit to residents of this state on the same basis.

(d)(1) The Board of Insurance Agent Education as established by §33-12-7 of this code shall develop a program of continuing education for adjusters and submit the proposal for the approval of the commissioner on or before December 31 of each year. No program may be approved by the commissioner that includes a requirement that any individual adjuster complete more than 24 hours of continuing insurance education biennially.

(2) The biennium mandatory continuing education provisions of this section become effective on the reporting period beginning July 1, 2021.

(3) The commissioner and the Board of Insurance Agent Education, under standards established by the board, may approve any course or program of instruction developed or sponsored by an authorized insurer, accredited college or university, adjusters' association, insurance trade association, or independent program of instruction that presents the criteria and the number of hours that the board and commissioner determine appropriate for the purpose of this section.

(e) An individual who holds an adjuster license and who is not exempt shall satisfactorily complete a minimum of 24 hours of continuing education courses, of which three hours must be in ethics, reported to the commissioner on a biennial basis in conjunction with their license renewal cycle.

(f) Every individual adjuster subject to the continuing education requirements shall furnish, at intervals and on forms as may be proposed by the commissioner, written certification listing the courses, programs, or seminars of instruction successfully completed by the adjuster. The

certification shall be executed by, or on behalf of, the organization sponsoring the courses, programs, or seminars of instruction.

(g) Subject to the approval of the commissioner, the active annual membership by an adjuster in an organization or association recognized and approved by the commissioner as a state, regional, or national professional insurance organization or association may be approved by the commissioner for up to two hours of continuing insurance education: *Provided*, That not more than two hours of continuing education may be awarded to an adjuster for membership in a professional insurance organization during a biennial reporting period.

(h) Adjusters who exceed the minimum continuing education requirement for the biennial reporting period may carry over a maximum of six credit hours only into the next reporting period.

(i) Any individual adjuster failing to meet the requirements mandated in this section and who has not been granted an extension of time with respect to the requirements, or who has submitted to the commissioner a false or fraudulent certificate of compliance, shall have his or her license automatically suspended and no further license may be issued to the person until the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements mandated by this section and all other applicable laws or rules.

(j) The commissioner shall notify the individual adjuster of his or her suspension pursuant to §33-12B-13(i) of this code by certified electronic mail return receipt requested or regular mail, if requested, to the last ~~address~~ respective address on file with the commissioner pursuant to ~~§33-12B-2(b)~~ §33-12B-14(a) of this code. Any individual insurance adjuster who has had a suspension ~~order~~ notice entered against him or her pursuant to this section may, within 30 calendar days of receipt of the ~~order~~ notice, file with the commissioner a request for a hearing for reconsideration of the matter.

(k) Any individual adjuster who does not satisfactorily demonstrate compliance with this section and all other laws applicable thereto as of the last day of the biennium following his or her suspension shall have his or her license automatically terminated and is subject to the licensing and examination requirements of §33-12B-5 of this code.

(l) The commissioner is authorized to hire personnel and make reasonable expenditures considered necessary for purposes of establishing and maintaining a system of continuing education for adjusters. The commissioner shall charge a fee of \$25 to continuing education providers for each continuing education course submitted for approval which shall be used to maintain the continuing education system. The commissioner may, at his or her discretion, designate an outside administrator to provide all of or part of the administrative duties of the continuing education system subject to direction and approval by the commissioner. The fees charged by the outside administrator shall be paid by the continuing education providers. In addition to fees charged by the outside administrator, the outside administrator shall collect and remit to the commissioner the \$25 course submission fee.

**§33-12B-14. Current address of adjusters to be filed; effective notice of appearance at hearing before commissioner.**

(a) Each adjuster shall file with the commissioner the complete address of his principal place of business and the complete address of his residence including the name and number of the street, or if the street where the business is located is not numbered, the number of the post office box. An adjuster shall also file with the commissioner the adjuster's electronic mail address. An

adjuster licensed on July 1, 2021, shall provide the commissioner with the licensee's electronic mail address in connection with the licensee's next license renewal application. Within 30 days of a change of business or residence address or electronic mail address by an adjuster, the adjuster must file with the commissioner notice of such change of address. The commissioner shall maintain the information provided pursuant to this subsection for each adjuster on file.

(b) When conducting any hearing authorized by ~~section thirteen, article two of this chapter §33-2-13 of this code~~ which concerns any adjuster, the commissioner shall give notice of such hearing and the matters to be determined therein to such adjuster by certified mail, return receipt requested, sent to the last address filed by such person or entity pursuant to this section.

(c) If an adjuster fails to appear at such hearing, the hearing may proceed, at which time the commissioner shall establish that notice was sent to such person pursuant to this section prior to the entry of any orders adverse to the interests of such adjuster based upon the allegations against such person which were set forth in the notice of hearing. Certified copies of all orders entered by the commissioner shall be sent to the person affected therein by certified mail, return receipt requested, at the last address filed by such person with the ~~division~~ commissioner.

(d) An adjuster who fails to appear at a hearing of which notice has been provided pursuant to this section, and who has had an adverse order entered by the commissioner against them as a result of their failure to so appear may, within 30 calendar days of the entry of such adverse order, file with the commissioner a written verified appeal with any relevant documents attached thereto, which demonstrates good and reasonable cause for the adjuster's failure to appear, and may request reconsideration of the matter and a new hearing. The commissioner in his or her discretion, and upon a finding that the adjuster has shown good and reasonable cause for his or her failure to appear, shall issue an order that the previous order be rescinded, that the matter be reconsidered, and that a new hearing be set.

(e) Orders entered pursuant to this section are subject to the judicial review provisions of §33-2-14 of this code.

The bill (Eng. Com. Sub. for H. B. 2682), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 422**, Establishing common law "veil piercing" claims not be used to impose personal liability.

**Senate Bill 531**, Relating to incomplete, duplicative, or redundant claims for refund.

**Senate Bill 532**, Limiting claims for state tax credits and rebates.

**Com. Sub. for Senate Bill 626**, Updating regulation for purchase of automobile catalytic converters.

**Eng. House Bill 2709**, Providing that the aggregate liability of a surety on a consumer protection bond under the West Virginia Fintech Regulatory Sandbox Program does not exceed the principal sum of the bond.

And,

**Eng. House Bill 2764**, Allow the Division of Financial Institutions to enter into reciprocity agreements with other jurisdictions that operate similar programs to the West Virginia Fintech Sandbox Program.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Lindsay.

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 March 16, 2021:

**Com. Sub. for Senate Bill 335**: Senator Hamilton;

**Senate Bill 378**: Senator Hamilton;

**Senate Bill 458**: Senator Rucker;

**Senate Bill 480**: Senator Woelfel;

**Senate Bill 484**: Senator Hamilton;

**Senate Bill 615**: Senator Hamilton;

**Senate Bill 626**: Senators Romano, Baldwin, and Lindsay;

**Senate Bill 636**: Senator Stollings;

**Senate Bill 641**: Senator Hamilton;

**Senate Joint Resolution 10**: Senator Rucker;

**Com. Sub. for Senate Joint Resolution 11**: Senator Romano;

**Senate Concurrent Resolution 24**: Senator Romano;

**Senate Concurrent Resolution 27**: Senators Stollings and Beach;

And,

**Senate Resolution 20**: Senators Lindsay, Beach, Romano, Woelfel, Plymale, Baldwin, Roberts, Hamilton, Caputo, Stollings, and Rucker.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:42 p.m., the Senate adjourned until tomorrow, Thursday, March 18, 2021, at 11 a.m.

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## **SENATE CALENDAR**

**Thursday, March 18, 2021  
11:00 AM**

### **UNFINISHED BUSINESS**

- S. C. R. 16 - USMC Corporal Roger Lee Boothe Memorial Road
- S. C. R. 28 - US Army PVT Thomas D. Beckett, Sr., Memorial Bridge
- S. R. 21 - Recognizing anniversary of SS Sultana tragedy

### **THIRD READING**

- Eng. Com. Sub. for S. B. 562 - Relating to juvenile competency proceedings
- Eng. Com. Sub. for S. B. 566 - Relating to interpretations of school laws
- Eng. Com. Sub. for H. B. 2372 - Allow pre-candidacy papers to be filed the day after the general election
- Eng. Com. Sub. for H. B. 2682 - Relating to the issuance of license suspensions to insurance producers and insurance adjusters who have failed to meet continuing education requirements (original similar to SB493)

### **SECOND READING**

- Com. Sub. for S. B. 422 - Establishing common law "veil piercing" claims not be used to impose personal liability
- S. B. 531 - Relating to incomplete, duplicative, or redundant claims for refund
- S. B. 532 - Limiting claims for state tax credits and rebates
- Com. Sub. for S. B. 626 - Updating regulation for purchase of automobile catalytic converters
- Eng. H. B. 2709 - Providing that the aggregate liability of a surety on a consumer protection bond under the West Virginia Fintech Regulatory Sandbox Program does not exceed the principal sum of the bond
- Eng. H. B. 2764 - Allow the Division of Financial Institutions to enter into reciprocity agreements with other jurisdictions that operate similar programs to the West Virginia Fintech Sandbox Program

### **FIRST READING**

- Com. Sub. for S. B. 36 - Relating to WV Secondary School Activities Commission audits
- Com. Sub. for S. B. 509 - Removing requirement that determination of medical stability be found prior to admission to mental health facility
- Com. Sub. for S. B. 569 - Relating to damages for medical monitoring



- Com. Sub. for S. B. 636 - Requiring certain history and civics courses be taught in schools
- Eng. Com. Sub. for H. B. 2024 - Expand use of telemedicine to all medical personnel - (Com. amend. pending) (original similar to SB273)
- Eng. H. B. 2701 - Relating to authorizing the Division of Rehabilitation Services to approve acceptable training programs required for low vision individuals to obtain a Class G drivers license (original similar to SB433)
- Eng. H. B. 2788 - Expiring funds to the unappropriated surplus balance from State Excess Lottery Revenue Fund
- Eng. Com. Sub. for H. B. 2789 - Supplementing and amending the appropriations to Public Defender Services
- Eng. Com. Sub. for H. B. 2802 - Supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Homeland Security, Division of Emergency Management
- Eng. Com. Sub. for H. B. 2803 - Supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Commerce, Division of Forestry
- Eng. H. B. 2804 - Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2021

NO COMMITTEE MEETING ANNOUNCEMENTS