



The Senate of West Virginia  
Charleston

April 17, 2025

The Honorable Patrick J. Morrisey  
Governor of West Virginia  
Office of the Governor  
State Capitol  
Charleston, WV 25305

The Honorable Randy E. Smith, President  
West Virginia Senate  
State Capitol  
Charleston, WV 25305

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

**RE: Procedural Irregularities in the West Virginia Senate's Passage of Senate Bill 474**

Dear Governor Morrisey, President Smith, and Clerk Cassis:

We are writing to convey our concerns about a series of procedural irregularities that occurred late on the evening of April 12 during the Senate's consideration of Senate Bill 474, the Governor's bill ending diversity, equity, and inclusion programs. The Senate took up the bill in the final hour of the session, and during that time, it improperly suspended a Joint Rule of the Senate and House of Delegates, failed to correctly reconsider its actions in passing the bill and suspending the Joint Rule, and refused to consider numerous properly filed Senate amendments to the House of Delegates amendments to the bill. Due to the Senate's patent disregard of established legislative procedure, the bill did not properly complete legislative action, and it should not be enrolled, authenticated, or presented to the Governor for approval. If the bill is sent to the Governor, it must be vetoed on technical grounds due to the Senate's failure to adhere to its own binding rules of procedure.

In our view, the Senate's consideration of Senate Bill 474 violated the Rules of the Senate and the Legislature's Joint Rules in at least three ways, as follows:

**First**, the Senate procedurally erred in suspending Joint Rule 3 in its efforts to pass the bill. Although Joint Rule 3 largely speaks to one chamber's disagreement with amendments made to a bill by the other chamber — a posture the Senate was not in — the intent of suspending the rule was evidently to avoid consideration of the 15 amendments to the bill that Senator Garcia had filed in the Senate's system, and to allow the Senate to quickly proceed to concur in the House's amendments and pass the bill before midnight. Joint Rule 3(a) provides, in relevant part:

**3. (a)** ...But when a measure originating in one house is amended in the other, the house in which it originated *may amend such amendment and a motion therefor shall take precedence of a motion to concur*.

The rule's suspension, however, was not done properly. Senator Tarr sought unanimous consent to suspend the rule, and upon objections being made, he moved to do so. A *voice* vote was then taken on the question, and the motion was declared adopted. But that procedure was flawed: Joint Rule 25 provides that "Joint Rules may only be suspended by a two-thirds vote of each house taken by *yeas and nays*, or by unanimous consent." Senate Rule 44, for its part, specifies that "the yeas and nays shall be taken ... on all questions where a specific vote is required by ... the Joint Rules of the Senate and House of Delegates." The two-thirds *roll call* vote required by Joint Rule 25 was never taken, let alone by both chambers. And following the ineffective suspension of Joint Rule 3, there was never a motion made nor a vote taken to concur in the House's amendments; the Senate moved directly to voting on passage of the bill. In any event, given that Joint Rule 3 was not correctly suspended, the Senate was required to consider the 15 pending Senate amendments to the House amendments. It declined to do so, thereby prohibiting the body from properly passing the bill.

**Second**, the Senate failed to properly reconsider the evening's first vote on the bill's passage. Apparently having recognized the flaws in the suspension of Joint Rule 3 and intending to roll that procedure back, Senator Tarr later moved to "reconsider the vote by which we concurred on Senate Bill 474." After a point of order was made by Senator Woelfel, Senator Martin moved the previous question. A voice vote was then taken on the pending motion for the previous question, which was adopted. But no follow-up vote of any sort was ever taken on the underlying motion for reconsideration (whether of passage of the bill or concurrence in the House's amendments). Instead, Senator Tarr immediately moved "to withdraw my motion," seemingly referring to his earlier motion to suspend Joint Rule 3. That motion was, again, out of order: reconsideration of the rule suspension could not occur unless and until the prior passage vote was reconsidered. Because neither passage nor the rule suspension were ever properly reconsidered, the first, ineffective passage vote remains in place.

**Third**, assuming that the Senate's first passage vote was properly reconsidered and that the suspension of Joint Rule 3 was rolled back, the chamber was required to consider the pending amendments to the House's amendments *before* it could concur in the House's changes to the bill. It completely failed to do so. Again, the relevant portion of Joint Rule 3 provides that when a bill originating in one house (the Senate) is amended in the other (the House), the chamber of origin "may amend such amendment," and a motion to do so "*shall take precedence of a motion to concur*" in the other chamber's changes. Departing from the rule's clear requirements (even after having moved to un-suspend the rule), Senator Tarr moved simply to "concur on Senate Bill 474." No inquiry from the chair was made with the Clerk whether additional Senate amendments were pending, as would ordinarily happen when amendments have been filed in the system. Instead, Senator Martin again moved the previous question. Senator Garcia raised a point of order, explaining that the pending amendments needed to be taken up before a vote on the House amendments could occur. But the President overruled the point of order, stating only that "the previous question has been called" — numerous successive roll call votes on concurring in the House amendments and on the bill's passage ensued, punctuated only by further motions for the

previous question by Senator Martin. None of the 15 pending Senate amendments were ever afforded consideration. This was again in direct violation of the Legislature's own procedural rules, and again nullifies the bill's passage.

For these reasons, we believe that the Senate's final consideration of Senate Bill 474 was fatally flawed, and that the bill was never properly passed by the body. As such, enrollment of the bill is inappropriate under Senate Rule 24 and Joint Rules 15 through 18. If the bill is enrolled and presented to the Governor, it will be incumbent upon the Governor to veto the bill in order to send a strong message to the Legislature that compliance with that branch of government's own rules is essential to the making of sound public policy in the State of West Virginia.

Very truly yours,



Senator Mike Woelfel  
Senate Minority Leader



Senator Joey Garcia  
Assistant Senate Minority Leader

cc: Senator Patrick Martin, Senate Majority Leader