

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
FORTY-SECOND DAY

Charleston, West Virginia, Tuesday, February 19, 2019

The Senate met at 11:03 a.m.

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

Prayer was offered by Pastor Wayne Crozier, Abundant Life Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Roman W. Prezioso, Jr., a senator from the thirteenth district.

Pending the reading of the Journal of Monday, February 18, 2019,

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

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

The Clerk presented the following communications from various state agencies as required by the provisions of law:

Housing Development Fund (Audited Financial Statements) (§31-18-24)

State Tax Department (Annual Preliminary Statewide Aggregate Tax Revenue Projection
(§11-1C-5)

Tax Appeals, Office of (§11-10A-7)

Transportation, Department of (Office of Administrative Hearings) (§17C-5C-2)

The Senate proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2768—A Bill to amend and reenact §16-54-1, §16-54-3, §16-54-4, §16-54-5, §16-54-6, §16-54-7, and §16-54-8, of the Code of West Virginia, 1931, as amended, all relating to reducing the use of certain prescription drugs; defining terms; clarifying types of examinations; requiring certain information in a narcotics contract; clarifying that the drug being regulated is a Schedule II opioid drug; providing exceptions; and requiring coverage for certain procedures to treat chronic pain.

Referred to the Committee on Health and Human Resources.

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

Eng. Com. Sub. for House Bill 2834—A Bill to amend and reenact §22C-9-4 of the Code of West Virginia, 1931, as amended, relating to updating and modernizing the minimum spacing provisions for the drilling of horizontal deep wells, which will allow exploration and production companies to implement evidence based best practices; establishing no spacing limitations on horizontal deep wells that are operated by the same operator or different operators pursuant to written agreement; establishing setbacks from unit boundaries between different operators; establishing the spacing between the wells of different operators; and limiting certain distances that may be established to only those between the producing portions of horizontal deep wells and not the entire well bore.

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

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 2849—A Bill to amend and reenact §30-5-11 and §30-5-12 of the Code of West Virginia, 1931, as amended, all relating to establishing different classes of pharmacy technicians; establishing an application process for a registered pharmacy technician to obtain an endorsement as a pharmacy technician; establishing an application process for a nuclear pharmacy technician endorsement; expanding the scope of practice for a registered pharmacy technician endorsement; and defining the scope of practice for a nuclear pharmacy technician endorsement.

Referred to the Committee on Health and Human Resources.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 613, Requiring DNR include election of organ donation on hunting licenses.

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

Com. Sub. for Senate Bill 613 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §16-19-3, §16-19-5, and §16-19-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-31 of said code, all relating to permitting individuals

to make an anatomical gift on a hunting or fishing license; adding definition; permitting the Division of Natural Resources to provide donor registrant records collected to the Donor Registry; requiring the Division of Natural Resources to provide information on the election of organ donation on hunting or fishing licenses; and requiring the Division or Natural Resources to include the election of organ donation on hunting or fishing licenses.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

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

Your Committee on Health and Human Resources has had under consideration

Senate Bill 300, Relating to adoption records.

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

Com. Sub. for Senate Bill 300 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-22-803, relating to adoption records; authorizing adult adoptees access to certain records, including adoption records and medical history; requiring birth parents to provide certain health information; allowing birth parents to designate a contact preference and allowing them to provide certain information; allowing birth parents to request name redaction, providing for a name redacting process; directing the Department of Health and Human Resources to administer records, require additional information, and charge a reasonable fee; providing a procedure for the collection and dissemination of information; providing for the tracking of information and reporting to the Legislative Oversight Commission on Health and Human Resources Accountability; and authorizing the Department of Health and Human Resources to promulgate legislative rules.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill (Com. Sub. for S. B. 300), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 583, Creating financial technology sandbox program for testing of financial products and services.

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

Com. Sub. for Senate Bill 583 (originating in the Committee on Banking and Insurance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-9-1, §31A-9-2, §31A-9-3, §31A-9-4, §31A-9-5, §31A-9-6, §31A-9-7, §31A-9-8, and §31A-9-9, all relating to creating the Financial Technology Sandbox Act and program for the testing of financial products and services; defining terms; authorizing waivers of certain statutes and rules covering the regulation of financial products and services offered to consumers in this state; providing for service of process; specifying responsibilities and authority of Commissioner of Financial Institutions; establishing standards and procedures related to applicants and applications for participation in the program; requiring application fee and reimbursement of costs incurred by Division for Financial Institutions; setting forth requirements concerning criminal history background checks and considerations regarding participation in the program; requiring posting of bond; creating the Financial Technology Innovation Account; specifying limits of program and standards for the suspension and revocation of an applicant's authorization under the program; requiring written statement of disclosures to consumers; requiring retention of certain records and exempting them from Freedom of Information Act; authorizing reciprocity agreements with other regulators; permitting potential extension of the program; authorizing rule-making and orders; and permitting the creation of a new unit under the Division of Financial Institutions with staff for administration of the program.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

The bill (Com. Sub. for S. B. 583), under the original double committee reference, was then referred to the Committee on the Judiciary.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate proceeded to the sixth order of business.

Senators Trump, Baldwin, Swope, Plymale, Stollings, Ihlenfeld, Maroney, and Rucker offered the following resolution:

Senate Concurrent Resolution 39—Requesting the Joint Committee on Government and Finance to create a Joint Select Committee on Requirements Governing Water Quality Standards.

Whereas, There is disagreement on what water quality standards should be; and

Whereas, Industry representatives and environmentalists disagree on what standards are adequate to protect the public health and well-being while still allowing businesses to be successful in their endeavors; and

Whereas, Federal standards must also be considered in determining the state's water quality standards; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to create a Joint Select Committee on Requirements Governing Water Quality Standards; and, be it

Further Resolved, That the Legislature hereby authorizes the Joint Select Committee on Requirements Governing Water Quality Standards to study the issues concerning water quality standards, while maintaining compliance with federal regulations, specifically the proposed Triennial Review of Water Quality Standards; and, be it

Further Resolved, That the Joint Select Committee on Requirements Governing Water Quality Standards shall be composed of five members of the Senate appointed by the President of the Senate and five members of the House of Delegates appointed by the Speaker of the House of Delegates. No more than three of the five members appointed by the President of the Senate and the Speaker of the House of Delegates, respectively, may be members of the same political party. In addition, the President of the Senate and Speaker of the House of Delegates shall be ex officio nonvoting members of the Joint Select Committee on Requirements Governing Water Quality Standards and shall designate the co-chairpersons; and, be it

Further Resolved, That the Joint Select Committee on Requirements Governing Water Quality Standards may meet at any time, both during sessions of the Legislature and in the interim, or as often as may be necessary to receive information and testimony, and report on its findings and conclusions. All members of the committee are entitled to compensation and reimbursement for expenses as authorized for members of the Legislature in accordance with the performance of their interim duties; and, be it

Further Resolved, That, at the conclusion of its study, the Joint Select Committee on Requirements Governing Water Quality Standards report to the Joint Committee on Government and Finance its findings, conclusions, and recommendations together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Tarr, Baldwin, Jeffries, Stollings, and Swope offered the following resolution:

Senate Concurrent Resolution 40—Requesting the Division of Highways name bridge number 2657, S-242(17), (40A030), located on Rt. 34 within the city limits of Hurricane, Putnam County, the "U. S. CPL Roy E. Clark Memorial Bridge".

Whereas, Roy Edward Clark was born 22 March 1946 in Hurricane, West Virginia, the son of Lawrence Willard Clark and Mazy Ann Woodard; and

Whereas, Roy E. Clark graduated from Hurricane High School in 1966, where he was known by his friends as a “kind, humble, honest, and caring young man”. Roy loved athletics and was a member of both the basketball and track teams; and

Whereas, After graduating high school, CPL Roy E. Clark served with the U. S. Army in Vietnam, Company C, 5th Battalion, 46th Infantry, 198th Infantry Brigade; and

Whereas, On 24 May 1969, CPL Roy E. Clark was mortally wounded when his company came under heavy enemy fire near the village of Tra Binh, Vietnam. With complete disregard for his own safety, CPL Roy E. Clark continued to expose himself to intense enemy fire, laying down a suppressive fire that provided cover to his comrades, enabling them to reach a safe position; and

Whereas, CPL Roy E. was posthumously awarded the Bronze star with “V” for valor for saving the lives of many of his fellow soldiers through his timely and courageous actions; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Roy E. Clark and his sacrifice for his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 2657, S-242(17), (40A030), located on Rt. 34 within the city limits of Hurricane, Putnam County, the “U. S. Army CPL Roy E. Clark 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 CPL Roy E. Clark Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Lindsay, Azinger, Facemire, Hardesty, Ihlenfeld, Jeffries, Palumbo, Plymale, Prezioso, Romano, Stollings, Takubo, Unger, Woelfel, Baldwin, Hamilton, and Maroney offered the following resolution:

Senate Concurrent Resolution 41—Requesting the Joint Committee on Government and Finance to study the implementation, costs, and benefits of creating a paid family and medical leave insurance program in West Virginia.

Whereas, Eighty-seven percent of workers do not have access to paid family leave through their employers, less than 40 percent have personal medical leave through an employer-provided temporary disability program, and the federal Family and Medical Leave Act (FMLA) leaves out 40 percent of the workforce and guarantees only unpaid leave; and

Whereas, In 1970, about half of married couples with children under the age of 18 lived in a household in which the father was the primary earner, compared to two-thirds living in dual-earner households by 2015. The share of children living with a single mother or single father also increased, and more children than ever are living in households in which all parents work and are unlikely to have access to paid leave to care for a sick child or stay home with an infant; and

Whereas, The State of West Virginia has the nation's lowest labor force participation rate for both men and women. The lack of paid leave means workers often choose between staying attached to the workforce, their families, or their health and this can result in lost wages, lower labor force participation, and reduced lifetime earnings; and

Whereas, There is no strong evidence that businesses suffer when workers have paid leave. Paid family leave can improve worker retention, reduce business costs, reduce turnover, and increase productivity while reducing the need for public assistance, which creates significant taxpayer savings; and

Whereas, Establishing a paid family and medical leave program can reduce health and economic disparities experienced by women and people of color; and

Whereas, Six states and the District of Columbia have enacted paid family and medical leave. The United States is the only industrialized country in the world that does not guarantee paid family and medical leave for its citizens; and

Whereas, Paid family leave has bipartisan support in the US Congress and President Trump called for at least six weeks of paid family leave during his 2019 State of the Union address, saying that every new parent should have a "chance to bond with their newborn child"; and

Whereas, Children are better off when their parents can take paid leave, including increased rates of breastfeeding, reduced rates of low birth-weights, improved parent bonding, and cognitive development and improved infant and child mortality; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the implementation, costs, and benefits of creating a paid family and medical leave insurance program in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Trump, Woelfel, Boso, Beach, Stollings, Takubo, Rucker, Lindsay, Baldwin, Palumbo, Jeffries, Romano, Hamilton, Plymale, Swope, Maroney, and Prezioso offered the following resolution:

Senate Resolution 51—Designating February 19, 2019, as Nurses' Policy Day at the Legislature.

Whereas, One in 43 West Virginians is a nurse; and

Whereas, Nurses make a significant contribution of time, energy, heart, and care toward the healing of our residents who are ill and suffering; and

Whereas, Nurses are powerful advocates for the health and well-being of all West Virginians, providing education, screening, nursing intervention, evaluation, and research to improve the health of our residents throughout their life span, from pre-birth to the end of life; and

Whereas, Nurses meet the health needs of West Virginians, not only in hospitals and long-term care facilities but conveniently in their homes, at school, at work, at church, in community health centers, on the phone, and on the Internet; and

Whereas, The Institute of Medicine recognizes nurses as key to solving our current rising cost of chronic illness through their expanding leadership as coordinators and collaborators of interdisciplinary health care teams; and

Whereas, The expanding roles of advanced practice registered nurses as nurse anesthetists, nurse midwives, and certified nurse practitioners in a variety of specialties provide improved, cost-effective access to health services in our rural state; and

Whereas, The American public has voted to acknowledge nurses as the Most Trusted Professional for 12 years; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 19, 2019, as Nurses' Policy Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of West Virginia Nurses' Policy Day.

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

On motion of Senator Takubo, at 11:15 a.m., the Senate recessed to present Senate Resolution 51.

The Senate reconvened at 11:19 a.m. and proceeded to the seventh order of business.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 36, US Army CPL Cory M. Hewitt 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 Concurrent Resolution 37, Urging Bureau for Public Health designate Alzheimer's disease and other dementias as public health issue.

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

Senate Concurrent Resolution 38, Urging CSX support New River Train.

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

At the request of Senator Plymale, 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, the same was put and prevailed.

Thereafter, on motion of Senator Plymale, the resolution (S. C. R. 38) was then referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 29, Creating ten-year tax credits for businesses locating on post-coal mine sites.

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, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Mann—2.

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. 29) 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 117, Relating to incentives for consolidating local governments.

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, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Mann—2.

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. 117) passed with its title.

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

Com. Sub. for Senate Bill 147, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 18, 2019, for amendments to be received on third reading, was reported by the Clerk.

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

On page one, section twenty-two, line eight, after the word “duties” by changing the period to a colon and inserting the following proviso: Provided, That any monofill landfill regulated under §22-15-21 of this code shall be exempt from such county or regional solid waste assessment fee.;

On page one, before article sixteen, by inserting a new section, designated section eleven, to read as follows:

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-11. Solid waste assessment fee; penalties.

(a) *Imposition.* — A solid waste assessment fee is hereby imposed upon the disposal of solid waste at any solid waste disposal facility in this state in the amount of \$1.75 per ton or part thereof of solid waste. The fee imposed by this section is in addition to all other fees and taxes levied by law and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility: Provided, That any monofill landfill regulated under §22-15-21 of this code shall be exempt from such solid waste assessment fee.

(b) *Collection, return, payment and records.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not such person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner.

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility.

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the fifteenth day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator is required to file returns on forms and in the manner as prescribed by the Tax Commissioner.

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until remitted to the Tax Commissioner.

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for such amount as he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by article ten, chapter eleven of this code.

(5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring such operator to collect the fees which become collectible after service of such notice, to deposit

such fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner and to keep the amount of such fees in such account until remitted to the Tax Commissioner. Such notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner.

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section.

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers thereof are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by article ten, chapter eleven of this code may be enforced against them as against the association or corporation which they represent.

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in such form as the Tax Commissioner may require in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section and section twenty-two, article five, chapter seven of this code is considered a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under chapter twenty-four-a of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within fourteen days, reflect the cost of said fee in said motor carrier's rates for solid waste removal service. In calculating the amount of said fee to said motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.

(d) *Definition of solid waste disposal facility.* — For purposes of this section, the term "solid waste disposal facility" means any approved solid waste facility or open dump in this state, and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste disposal facility within this state that collects the fee imposed by this section. Nothing herein authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste disposal facility by the person who owns, operates or leases the solid waste disposal facility if the facility is used exclusively to dispose of waste originally produced by such person in such person's regular business or personal activities or by persons utilizing the facility on a cost-sharing or nonprofit basis;

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on such days and times as designated by the secretary is exempt from the solid waste assessment fee; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of thirty percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler must keep accurate records of incoming and outgoing waste by weight. Such records must be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding section three, article ten, chapter eleven of this code, each and every provision of the “West Virginia Tax Procedure and Administration Act” set forth in article ten, chapter eleven of this code shall apply to the fee imposed by this section with like effect as if said act were applicable only to the fee imposed by this section and were set forth in extenso herein.

(g) *Criminal penalties.* — Notwithstanding section two, article nine, chapter eleven of this code, sections three through seventeen, article nine, chapter eleven of this code shall apply to the fee imposed by this section with like effect as if said sections were applicable only to the fee imposed by this section and were set forth in extenso herein.

(h) *Dedication of proceeds.* — The net proceeds of the fee collected by the Tax Commissioner pursuant to this section shall be deposited at least monthly in an account designated by the secretary. The secretary shall allocate \$0.25 for each ton of solid waste disposed of in this state upon which the fee imposed by this section is collected and shall deposit the total amount so allocated into the “Solid Waste Reclamation and Environmental Response Fund” to be expended for the purposes hereinafter specified. The first \$1 million dollars of the net proceeds of the fee imposed by this section collected in each fiscal year shall be deposited in the “Solid Waste Enforcement Fund” and expended for the purposes hereinafter specified. The next \$250,000 of the net proceeds of the fee imposed by this section collected in each fiscal year shall be deposited in the “Solid Waste Management Board Reserve Fund”, and expended for the purposes hereinafter specified: *Provided*, That in any year in which the Water Development Authority determines that the Solid Waste Management Board Reserve Fund is adequate to defer any contingent liability of the fund, the Water Development Authority shall so certify to the secretary and the secretary shall then cause no less than \$50,000 nor more than \$250,000 to be deposited to the fund: *Provided, however*, That in any year in which the water development authority determines that the Solid Waste Management Board Reserve Fund is inadequate to defer any contingent liability of the fund, the Water Development Authority shall so certify to the secretary and the secretary shall then cause not less than \$250,000 nor more than \$500,000 to be deposited in the fund: *Provided further*, That if a facility owned or operated by the state of West Virginia is denied site approval by a county or regional solid waste authority, and if such denial contributes, in whole or in part, to a default, or drawing upon a reserve fund, on any indebtedness issued or approved by the Solid Waste Management Board, then in that event the Solid Waste Management Board or its fiscal agent may withhold all or any part of any funds which would otherwise be directed to such county or regional authority and shall deposit such withheld funds in the appropriate reserve fund. The secretary shall allocate the remainder, if any, of said net proceeds among the following three special revenue accounts for the purpose of maintaining a reasonable balance in each special revenue account, which are hereby continued in the State Treasury:

(1) The “Solid Waste Enforcement Fund” which shall be expended by the secretary for administration, inspection, enforcement and permitting activities established pursuant to this article;

(2) The “Solid Waste Management Board Reserve Fund” which shall be exclusively dedicated to providing a reserve fund for the issuance and security of solid waste disposal revenue bonds issued by the solid waste management board pursuant to article three, chapter twenty-two-c of this code;

(3) The “Solid Waste Reclamation and Environmental Response Fund” which may be expended by the secretary for the purposes of reclamation, cleanup and remedial actions intended to minimize or mitigate damage to the environment, natural resources, public water supplies, water resources and the public health, safety and welfare which may result from open dumps or solid waste not disposed of in a proper or lawful manner.

(i) *Findings.* — In addition to the purposes and legislative findings set forth in section one of this article, the Legislature finds as follows:

(1) In-state and out-of-state locations producing solid waste should bear the responsibility of disposing of said solid waste or compensate other localities for costs associated with accepting such solid waste;

(2) The costs of maintaining and policing the streets and highways of the state and its communities are increased by long distance transportation of large volumes of solid waste; and

(3) Local approved solid waste facilities are being prematurely depleted by solid waste originating from other locations.

(j) The “Gas Field Highway Repair and Horizontal Drilling Waste Study Fund” is hereby created as a special revenue fund in the State Treasury to be administered by the West Virginia Division of Highways and to be expended only on the improvement, maintenance, and repair of public roads of three lanes or less located in the watershed from which the revenue was received that are identified by the Commissioner of Highways as having been damaged by trucks and other traffic associated with horizontal well drilling sites or the disposal of waste generated by such sites, and that experience congestion caused, in whole or in part, by such trucks and traffic that interferes with the use of said roads by residents in the vicinity of such roads: *Provided*, That up to \$750,000 from such fund shall be made available to the Department of Environmental Protection from the same fund to offset contracted costs incurred by the Department of Environmental Protection while undertaking the horizontal drilling waste disposal studies mandated by the provisions of subsection (j), section eight of this article. Any balance remaining in the special revenue account at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue account and shall be used solely in a manner consistent with this section. The fund shall consist of the fee provided for in subsection (k) of this section.

(k) *Horizontal drilling waste assessment fee.* — An additional solid waste assessment fee is hereby imposed upon the disposal of drill cuttings and drilling waste generated by horizontal well sites in the amount of \$1 per ton, which fee is in addition to all other fees and taxes levied by this section or otherwise and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility: *Provided*, That the horizontal drilling waste assessment fee shall be collected and administered in the same manner as the solid waste

assessment fee imposed by this section, but shall be imposed only upon the disposal of drill cuttings and drilling waste generated by horizontal well sites.;

And,

On page two, section four, line nine, after the word “facility” by changing the period to a colon and inserting the following proviso: *Provided further, That any monofill landfill regulated under §22-15-21 of this code shall be exempt from such county or regional solid waste assessment fee.*

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 147 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Mann—2.

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. 147) passed.

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

Eng. Senate Bill 147—A Bill to amend and reenact §7-5-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-15-11 of said code; and to amend and reenact §22-16-4 of said code, all relating to shifting funding from the Landfill Closure Assistance Fund to local solid waste authorities and setting out an exemption from the fees for certain monofill landfills.

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

Eng. Senate Bill 333, Exempting automobiles 25 years or older from personal property taxes.

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 333 pass?”

Senators Romano, Blair, Boso, Weld, and Prezioso respectively requested a ruling from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate as they are owners of antique cars.

The Chair replied that any impact on Senators Romano, Blair, Boso, Weld, and Prezioso would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Hamilton, Jeffries, Maroney, Maynard, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Boso, Clements, Facemire, Hardesty, Ihlenfeld, Lindsay, Palumbo, Prezioso, Romano, Sypolt, Weld, and Woelfel—13.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 333) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

Following discussion,

The question being on the adoption of Senator Takubo's aforestated motion.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Woelfel—1.

Absent: Cline and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 333) takes effect July 1, 2019.

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

Eng. Senate Bill 617, Relating to method of payment to Municipal Pensions Security Fund.

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, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 617) passed.

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

Eng. Senate Bill 617—A Bill to amend and reenact §8-22-19 of the Code of West Virginia, 1931, as amended, relating to method of payment of municipal contributions to municipality's pension trust funds.

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

Eng. Senate Bill 618, Relating to effect on levy rate when appraisal results in tax increase.

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

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Hamilton, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Takubo, Trump, Weld, and Carmichael (Mr. President)—16.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Tarr, Unger, and Woelfel—16.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. S. B. 618) rejected on a tie vote.

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 310, Establishing certain requirements for dental insurance.

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 326, Reorganizing state agencies involved in emergency and disaster planning.

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

On motion of Senator Takubo, the bill was referred to the Committee on Rules.

Com. Sub. for Senate Bill 344, Relating to operation of state-owned farms.

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 360, Relating to third-party litigation financing.

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 512, Regulating pawnbrokers.

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

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

On page two, section one, line two, after the word "transactions" by inserting the following: "except for refinance pawn transactions or merchandise bought from a manufacturer or wholesaler with an established place of business".

The bill (Com. Sub. for S. B. 512), as amended, was then ordered to engrossment and third reading.

Senate Bill 519, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

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 553, Relating to federal funds for land-grant institutions.

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

Senate Bill 587, Relating to PEIA reimbursement of air ambulance providers.

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 601, Relating to mandatory supervision of adult inmates.

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

Senate Bill 635, Relating generally to coal mining activities.

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

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

Senate Bill 636, Authorizing legislative rules for Higher Education Policy Commission.

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 2324, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

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

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

Eng. Com. Sub. for House Bill 2607, Relating to the licensure of nursing homes.

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

Eng. House Bill 2666, Supplemental appropriation to the Department of Veterans' Assistance.

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

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page two, line thirteen, before the word "Veterans" by striking out "6" and inserting in lieu thereof "7";

And,

On page two, line fourteen, before the word "Veterans" by striking out "9" and inserting in lieu thereof "12".

The bill (Eng. H. B. 2666), as amended, was then ordered to third reading.

Eng. House Bill 2668, Supplemental appropriation to the Department of Administration, Public Defender Services.

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

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

On page one, line thirteen, before the word "Appointed" by striking out "5" and inserting in lieu thereof "6".

The bill (Eng. H. B. 2668), 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 340, Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company.

Com. Sub. for Com. Sub. for Senate Bill 402, Authorizing Division of Forestry investigate and enforce timber theft violations.

Com. Sub. for Com. Sub. for Senate Bill 510, Relating to medical professional liability.

And,

Eng. Com. Sub. for House Bill 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Tarr, Romano, Rucker, Takubo, Azinger, and Facemire.

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

At the request of Senator Prezioso, unanimous consent being granted, the remarks by Senators Romano and Facemire were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the respective requests of Senators Palumbo, Prezioso, and Stollings, the names of Senators Palumbo, Prezioso, and Stollings, were removed as sponsors of **Engrossed Senate Bill 618** (*Relating to effect on levy rate when appraisal results in tax increase*).

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

At the request of Senator Romano, unanimous consent being granted, the Senate returned to the eleventh order of business and the introduction of guests.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, 12:14 p.m., the Senate adjourned until tomorrow, Wednesday, February 20, 2019, at 11 a.m.

SENATE CALENDAR

**Wednesday, February 20, 2019
11:00 AM**

UNFINISHED BUSINESS

- S. C. R. 39 - Requesting creation of Joint Select Committee on Requirements Governing Water Quality Standards
- S. C. R. 40 - US Army CPL Roy E. Clark Memorial Bridge
- S. C. R. 41 - Requesting study creating paid family and medical leave insurance program

THIRD READING

- Eng. Com. Sub. for Com. Sub. for S. B. 310 - Establishing certain requirements for dental insurance (original similar to HB2754)
- Eng. Com. Sub. for S. B. 344 - Relating to operation of state-owned farms (original similar to HB2560)
- Eng. Com. Sub. for S. B. 360 - Relating to third-party litigation financing
- Eng. Com. Sub. for S. B. 512 - Regulating pawnbrokers
- Eng. S. B. 519 - Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation (original similar to HB2880)
- Eng. Com. Sub. for S. B. 553 - Relating to federal funds for land-grant institutions
- Eng. S. B. 587 - Relating to PEIA reimbursement of air ambulance providers
- Eng. Com. Sub. for S. B. 601 - Relating to mandatory supervision of adult inmates
- Eng. S. B. 636 - Authorizing legislative rules for Higher Education Policy Commission
- Eng. Com. Sub. for H. B. 2607 - Relating to the licensure of nursing homes (original similar to SB434)
- Eng. H. B. 2666 - Supplemental appropriation to the Department of Veterans' Assistance (original similar to SB446)
- Eng. H. B. 2668 - Supplemental appropriation to the Department of Administration, Public Defender Services

SECOND READING

- Com. Sub. for S. B. 340 - Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company
- Com. Sub. for Com. Sub. for S. B. 402 - Authorizing Division of Forestry investigate and enforce timber theft violations (original similar to HB2717)
- Com. Sub. for Com. Sub. for S. B. 510 - Relating to medical professional liability

S. B. 635 - Relating generally to coal mining activities

Eng. Com. Sub. for H. B. 2083 - Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2324 - Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy - (Com. amend. pending)

FIRST READING

Com. Sub. for S. B. 613 - Requiring DNR include election of organ donation on hunting licenses

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2019

Wednesday, February 20, 2019

9 a.m.	Transportation & Infrastructure	(Room 451M)
10 a.m.	Government Organization	(Room 208W)
2 p.m.	Agriculture & Rural Development	(Room 208W)