

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2021
FORTY-SECOND DAY

Charleston, West Virginia, Tuesday, March 23, 2021

The Senate met at 11:01 a.m.

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

Prayer was offered by the Honorable Patricia Puertas Rucker, a senator from the sixteenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles H. Clements, a senator from the second district.

Pending the reading of the Journal of Monday, March 22, 2021,

At the request of Senator Unger, 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.

Senator Blair (Mr. President) announced that, under the provisions of Senate Resolution 6 (*Adopting special rule of order relating to proxy voting due to COVID-19 pandemic*) adopted February 22, 2021, Senators Martin and Sypolt had been approved to vote by proxy and that Senator Takubo had been designated to vote on their behalf.

The Senate 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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 156, Authorizing Department of Homeland Security to promulgate legislative rules.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

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

ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF HOMELAND SECURITY TO PROMULGATE LEGISLATIVE RULES.

§64-6-1. Fire Commission.

The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of ~~§29-3-5b~~ §15A-11-5 of this code, relating to the Fire Commission (standards for the certification and continuing education of municipal, county, and other public sector building code officials, building code inspectors, and plans examiners, 87 CSR 07), is authorized.

§64-6-2. Fire Marshal.

The legislative rule filed in the State Register on August 13, 2020, authorized under the authority of §15A-10-5(a) of this code, relating to the Fire Marshal (standards for the certification and continuing education of municipal, county, and other public sector building code officials, building code inspectors, and plans examiners, 103 CSR 06), is authorized with the following amendment:

On page six, after subdivision 8.1.a, by adding a new subdivision 8.1.b to read as follows: "Each inspector, during the inspection, shall maintain and have readily available the current provisions in paper or electronic format of the appropriate standard for the relevant discipline available for review. The Code Official is responsible for ensuring that this is done, and that the inspector shall inform the building owner or agent, in writing, of the specific violation of the code by number and or title."

§64-6-3. State Emergency Response Commission.

(a) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §15-5A-5 of this code, relating to the State Emergency Response Commission (emergency planning and community right-to-know, 55 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §15-5A-5 of this code, relating to the State Emergency Response Commission (emergency planning grant program, 55 CSR 02), is authorized with the following amendments:

On page 1, section 2, by striking out all of subsection 2.4;

And,

By renumbering the remaining subsection.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 156, as amended by the House of Delegates, 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, Martin (by proxy), Maynard, Nelson, Phillips,

Plymale, Roberts, Romano, Rucker, Smith, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Maroney, Stollings, and Sypolt—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 156) 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, Martin (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Maroney, Stollings, and Sypolt—3.

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. 156) takes effect from passage.

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

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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. Senate Bill 160, Authorizing Department of Revenue to promulgate legislative rules.

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 4, by striking out all of section four;

By renumbering the remaining sections;

On page 5, section 7, line 3, by striking §11-5C-5(b) and inserting in lieu thereof "11-1C-5(b)";

And,

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

Eng. Com. Sub. for Senate Bill 160—A Bill to amend and reenact §64-7-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Revenue to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee; directing the amendment of a legislative-exempt rule by the Legislature; relating to authorizing the Alcohol Beverage Control

Commission to promulgate a legislative rule relating to private club licensing; relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to distilleries, mini-distilleries, and micro-distilleries; relating to authorizing the Financial Institutions Division to promulgate a legislative rule relating to a rule pertaining to the Fintech Regulatory Sandbox; relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating to fingerprinting requirements for applicants for insurance producer and insurance adjuster license; relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating to insurance adjusters; relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating to credit for reinsurance; relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating to insurance continuing education for individual insurance producers and individual insurance adjusters; relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating to mental health parity; relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating to health benefit plan network access and adequacy; relating to authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing; relating to authorizing the Racing Commission to promulgate a legislative rule relating to greyhound racing; relating to authorizing the Racing Commission to promulgate a legislative rule relating to advance deposit account wagering; relating to authorizing the Lottery Commission to promulgate a legislative rule relating to West Virginia Lottery interactive wagering rule; relating to directing the State Tax Department to amend a legislative-exempt rule relating to valuation of farmland and structures situated thereon for ad valorem property tax purposes; relating to authorizing the State Tax Department to promulgate a legislative rule relating to a tax credit for providing vehicles to low-income workers; relating to authorizing the State Tax Department to promulgate a legislative rule relating to the downstream natural gas manufacturing investment tax credit; and relating to authorizing the State Tax Department to promulgate a legislative rule relating to the high-wage growth business tax credit.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 160, as amended by the House of Delegates, 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, Martin (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Maroney and Sypolt—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 160) passed with its House of Delegates amended 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, Martin (by proxy), Maynard, Nelson, Phillips,

Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Maroney and Sypolt—2.

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. 160) takes effect from passage.

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

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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 182, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

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:

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

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on August 27, 2020, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (animal disease control, 61 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 27, 2020, authorized under the authority of §19-16-6 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 23, 2020, relating to the Commissioner of Agriculture (West Virginia Seed Law, 61 CSR 09), is authorized.

(c) The legislative rule filed in the State Register on August 17, 2020, authorized under the authority of §19-2B-3 of this code, relating to the Commissioner of Agriculture (inspection of meat and poultry, 61 CSR 16), is authorized.

(d) The legislative rule filed in the State Register on July 27, 2020, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (poultry litter and manure movement into primary poultry breeder rearing areas, 61 CSR 28), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §19-16-3a of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

December 22, 2020, relating to the Commissioner of Agriculture (seed certification program, 61 CSR 39), is authorized.

(f) The legislative rule filed in the State Register on September 21, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (WV-exempted dairy farms and milk and milk products processing rules, 61 CSR 40), is authorized.

§64-9-2. Auditor.

The legislative rule filed in the State Register on September 17, 2020, authorized under the authority of §12-3-10 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 19, 2020, relating to the Auditor (standards for requisitions for payment issued by state officers on the Auditor, 155 CSR 01), is authorized with the following amendments:

On page 2, subsection 2.15., by striking the word “or” and following the acronym “(PRC)”, by inserting the following, “, or WIRE”;

On page 4, subdivision 3.1.3., after the word “signature.” by adding a new sentence to read as follows, “Alternative certifications may be approved by the Auditor if required by business processes.”;

On page 10, by inserting a new subsection 12.2. to read as follows:

“12.2. The auditor may approve alternative documents if necessitated by business processes.”;

And,

On page 10, subsection 13.1., following the words “For all nonrecurring wires, the”, by inserting the following, “State Treasurer’s Office (STO)”.

§64-9-3. Board of Funeral Service Examiners.

(a) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2020, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice, courtesy card holders, and funeral establishment requirements, 6 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2020, relating to the Board of Funeral Service Examiners (crematory requirements, 6 CSR 02), is authorized with the following amendments:

On page 3, after paragraph 4.1.1.6. by adding a new subdivision 4.1.3. to read as follows:

“4.1.3. An applicant must attend a crematory operator certification program approved by the Board prior to submitting an application. The completion certificate must be submitted with the registration application.”;

And,

On page 21, Subdivision 22.5.3., by striking out the words “or courtesy card holder”.

(c) The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2020, relating to the Board of Funeral Service Examiners (fee schedule, 6 CSR 07), is authorized with the following amendment:

On page 3, Subdivision 4.2.2., by striking out the words “three hundred fifty dollars (\$350.00)” and inserting in lieu thereof the words “two hundred seventy five dollars (\$275.00)”

§64-9-4. Board of Hearing Aid Dealers.

The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §30-26-3 of this code, modified by the Board of Hearing Aid Dealers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 1, 2020, relating to the Board of Hearing Aid Dealers (rule governing the West Virginia Board of Hearing Aid Dealers, 8 CSR 01), is authorized.

§64-9-5. Board of Landscape Architects.

(a) The legislative rule filed in the State Register on August 27, 2020, authorized under the authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 1, 2020, relating to the Board of Landscape Architects (registration of landscape architects, 9 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 23, 2020, relating to the Board of Landscape Architects (application for waiver of initial licensing fees for certain individuals, 9 CSR 04), is authorized.

§64-9-6. Livestock Care Standards Board.

The legislative rule filed in the State Register on August 21, 2020, authorized under the authority of §19-1C-4 of this code, relating to the Livestock Care Standards Board (livestock care standards, 73 CSR 01), is authorized.

§64-9-7. Board of Medicine.

The legislative rule filed in the State Register on June 24, 2020, authorized under the authority of §30-3-7 of this code, relating to the Board of Medicine (registration to practice during declared state of emergency, 11 CSR 14), is authorized.

§64-9-8. Municipal Pensions Oversight Board.

The legislative rule filed in the State Register on August 7, 2020, authorized under the authority of §8-22-18a of this code, modified by the Municipal Pensions Oversight Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 17, 2020, relating to the Municipal Pensions Oversight Board (exempt purchasing, 211 CSR 02), is authorized.

§64-9-9. Board of Occupational Therapy.

The legislative rule filed in the State Register on August 10, 2020, authorized under the authority of §30-28-7 of this code, relating to the Board of Occupational Therapy (telehealth practice requirements, definitions, 13 CSR 09), is authorized.

§64-9-10. Board of Osteopathic Medicine.

(a) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §30-14-14 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 23, 2020, relating to the Board of Osteopathic Medicine (licensing procedures for osteopathic physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on June 22, 2020, authorized under the authority of §30-14-14 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 23, 2020, relating to the Board of Osteopathic Medicine (emergency temporary permits to practice during states of emergency or states of preparedness, 24 CSR 09), is authorized.

§64-9-11. Board of Pharmacy.

(a) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-5-7 of this code, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2020, relating to the Board of Pharmacy (Uniform Controlled Substances Act, 15 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2020, relating to the Board of Pharmacy (board of pharmacy rules for continuing education for licensure of pharmacists, 15 CSR 03), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §60A-8-9 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2020, relating to the Board of Pharmacy (licensure of wholesale drug distributors, third-party logistics providers, and manufacturers, 15 CSR 05), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2020, relating to the Board of Pharmacy (Controlled Substances Monitoring Program, 15 CSR 08), is authorized.

(f) The legislative rule filed in the State Register on September 4, 2020, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2020, relating to the Board of Pharmacy (board of pharmacy rules for immunizations administered by pharmacists and pharmacy interns, 15 CSR 12), is authorized.

§64-9-12. Board of Physical Therapy.

(a) The legislative rule filed in the State Register on October 19, 2020, authorized under the authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 18, 2020, relating to the Board of Physical Therapy (general provisions for physical therapist and physical therapist's assistants, 16 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2020, relating to the Board of Physical Therapy (fees for physical therapist and physical therapist's assistants, 16 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on October 19, 2020, authorized under the authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2020, relating to the Board of Physical Therapy (general provisions for athletic trainers, 16 CSR 05), is authorized.

(d) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2020, relating to the Board of Physical Therapy (fees for athletic trainers, 16 CSR 06), is authorized.

§64-9-13. Board of Professional Surveyors.

The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of §30-13A-6 of this code, modified by the Board of Professional Surveyors to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 19, 2020, relating to the Board of Professional Surveyors (examination and licensing of professional surveyors in West Virginia, 23 CSR 01), is authorized.

§64-9-14. Real Estate Commission.

The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of §30-40-8 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December

11, 2020, relating to the Real Estate Commission (licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business, 174 CSR 01), is authorized.

§64-9-15. Board of Respiratory Care.

The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-34-6 of this code, modified by the Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 17, 2020, relating to the Board of Respiratory Care (criteria for licensure, 30 CSR 01), is authorized.

§64-9-16. Secretary of State.

(a) The legislative rule filed in the State Register on June 23, 2020, authorized under the authority of §3-1-48 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2020, relating to the Secretary of State (loan and grant programs under the Help America Vote Act for the purchase of voting equipment, election systems, software, services, and upgrades, 153 CSR 10), is authorized.

(b) The legislative rule filed in the State Register on June 25, 2020, authorized under the authority of §39-4-25 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2020, relating to the Secretary of State (guidelines and standards for electronic notarization, 153 CSR 45), is authorized.

§64-9-17. Bureau of Senior Services.

The legislative rule filed in the State Register on August 25, 2020, authorized under the authority of §16-5P-6 of this code, modified by the Bureau of Senior Services to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 30, 2020, relating to the Bureau of Senior Services (shared table initiative for senior citizens, 76 CSR 06), is authorized with the following amendments:

On page 1, subsection 1.1., by striking out “Share tables are tables or stations where food service staff, senior citizens, and volunteers may return unopened prepackaged items, whole fruit and unopened beverage items they choose not to eat. These food and beverage items are then available to other senior citizens who may need additional nutritional servings.”;

On page 1, section 2, by adding a new subsection 2.6 to read as follows:

“2.6. “Sharing tables” are tables or stations at senior centers or other locations where congreg7ate meals are provided to senior citizens where senior citizens may return unopened prepackaged items, whole fruit and unopened beverage items they choose not to eat. These food and beverage items are then available to other senior citizens who may need additional nutritional servings.”;

On page 2, section 3, by striking out all of subsection 3.1 and inserting in lieu thereof the following:

“3.1. Any unopened pre-packaged items, including, but not limited to pretzels, crackers, bags of fruits and vegetables stored in a cooling bin, wrapped whole fruit, such as apples and bananas and unopened milk which has been stored in a cooling bin maintained at 41 degrees Fahrenheit or below may be distributed at a sharing table. Nutrition providers shall be aware of and comply with all Federal, state, and local laws, rules, regulations, and codes regarding standards for the preparation and distribution of food and beverages.”;

On page 2, section 4, by striking out all of subsection 4.1. and inserting in lieu thereof the following:

“4.1. “Food and beverages which may be distributed under section three of this rule may be distributed at sharing table or to senior citizens who receive home-delivered meals.”;

On page 2, subsection 5.1. after the words “serving times or” by inserting the words “the food or beverage item”;

On page 2, subsection 5.1. by deleting the words “where the Federal and State standards have been maintained”;

On page 2, section 6, by striking out all of subsection 6.1 and inserting in lieu thereof the following:

“Senior centers or other locations where congregate meals are provided to senior citizens’ which receive, prepare, or donate food and beverages to a food bank or other nonprofit charitable organization under this rule, shall comply with and are subject to the Good Samaritan Food Donation Act, W.Va. Code §55-7D-1 *et seq.*”;

On page 2, section 6, by striking out all of subsection 6.2;

And,

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

Eng. Com. Sub. for Senate Bill 182—A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia Seed Law; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to inspection of meat and poultry; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to a seed certification program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia-exempted dairy farms and milk and milk products processing rules; authorizing the Auditor to promulgate a legislative rule relating to standards for requisitions for payment issued by state officers on the Auditor; authorizing the Funeral Service Examiners to promulgate a legislative rule relating to funeral director, embalmer, apprentice, courtesy card holders and funeral establishment requirements; authorizing the Funeral Service Examiners to promulgate a legislative rule relating to crematory requirements; authorizing the Funeral Service Examiners to promulgate a legislative

rule relating to a fee schedule; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to governing the West Virginia Board of Hearing Aid Dealers; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to registration of landscape architects; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Livestock Care Standards Board to promulgate a legislative rule relating to livestock care standards; authorizing the Board of Medicine to promulgate a legislative rule relating to registration to practice during declared state of emergency; relating to authorizing the Municipal Pensions Oversight Board to promulgate a legislative rule relating to exempt purchasing; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to telehealth practice requirements, and definitions; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to emergency temporary permits to practice during states of emergency or state of preparedness; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for continuing education for licensure of pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure of wholesale drug distributors, third-party logistics providers, and manufacturers; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Controlled Substances Monitoring Program; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy Rules for immunizations administered by pharmacists and pharmacy interns; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for physical therapist and physical therapist's assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist's assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for athletic trainers; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to examination and licensing of professional surveyors in West Virginia; authorizing the Real Estate Commission to promulgate a legislative rule relating to licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to criteria for licensure; authorizing the Secretary of State to promulgate a legislative rule relating to loan and grants programs under the Help America Vote Act (HAVA) for the purchase of voting equipment, election systems, software, services, and upgrades; authorizing the Secretary of State to promulgate a legislative rule relating to guidelines and standards for electronic notarizations; and authorizing the Board of Senior Services to promulgate a legislative rule relating to a shared table initiative for senior citizens.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 182, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 182 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Sypolt—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 182) passed with its House of Delegates amended 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 (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Sypolt—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. 182) takes effect from passage.

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

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 2026—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-31; and to amend and reenact §11-24-7, all relating to the collection of income taxes generally; excluding compensation of certain temporary nonresident employees from state source income; changing the allocation of multi-state income from a four factor formula to a single sales factor; removing requirement that certain sales of tangible personal property be excluded when allocating sales of tangible personal property to this state; replacing the income-producing activity methodology for allocating sales of services and intangible property to this state with a market-based sourcing methodology; and providing effective dates.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 2263, Update the regulation of pharmacy benefit managers.

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

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:

On page 18, section 9, line 74, by striking subsection (l) in its entirety and inserting a new subsection (l) all to read as follows:

(l) A covered individual's defined cost sharing for each prescription drug shall be calculated at the point of sale based on a price that is reduced by an amount equal to at least 100% of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. Nothing precludes an insurer from decreasing a covered individual's defined cost sharing by an amount greater than what is previously stated.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendment to the Senate amendments to the bill (Eng. Com. Sub. for H. B. 2263) and requested the House of Delegates to recede therefrom.

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 passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 2796—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2021, in the amount of \$200,000 from the WV Board of Examiners for Registered Professional Nurses – Registered Professional Nurses, fund 8520, organization 0907, fiscal year 2021, and making a supplementary appropriation 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, West Virginia Development Office, fund 0256, fiscal year 2021, organization 0307, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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 2829—A Bill to amend and reenact §8-22-20 of the Code of West Virginia, 1931, as amended, relating to the amortization of annual impacts on funding deficiencies due to new gains or losses on assets and liabilities and changes in actuarial assumptions.

Referred to the Committee on Pensions.

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

Eng. House Bill 2897—A Bill expiring funds to the balance of the Department of Commerce, West Virginia Development Office, Marketing and Communications Operating Fund, fund 3002, fiscal year 2021, organization 0307, in the amount of \$222,563, from the Department of Commerce, West Virginia Development Office, Synthetic Fuel – Producing County Fund, fund

3165, fiscal year 2021, organization 0307, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

Eng. House Bill 2899—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 Commerce, Division of Labor - Elevator Safety Fund, fund 3188, fiscal year 2021, organization 0308; the Department of Commerce, Division of Labor - Bedding and Upholstery Fund, fund 3198, fiscal year 2021, organization 0308; and that Chapter 11, Acts of the Legislature, Regular Session, 2020, known as the budget bill, be supplemented and amended by adding to Title II a new item of appropriation to the Department of Commerce, Division of Natural Resources – West Virginia Parks and Recreation Endowment Fund, fund 3211, fiscal year 2021, organization 0310 by supplementing, amending and adding appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

Eng. House Bill 2920—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 Health and Human Resources, Division of Health – Laboratory Services Fund, fund 5163, 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.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 22nd day of March, 2021, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2006), Relating to the West Virginia Contractor Licensing Act.

(Com. Sub. for H. B. 2008), Amending requirements for licensure relating to elevator mechanics, crane operators, HVAC, electricians, and plumbers.

And,

(Com. Sub. for H. B. 2013), Relating to the Hope Scholarship Program.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.

Dean Jeffries,
Chair, House Committee.

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

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

(Com. Sub. for S. B. 5), Relating to claims arising out of WV Consumer Credit and Protection Act.

(Com. Sub. for S. B. 42), Creating Zombie Property Remediation Act of 2021.

(S. B. 89), Exempting certain kindergarten and preschool programs offered by private schools from registration requirements.

And,

(S. B. 523), Correcting improper code references.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.

Dean Jeffries,
Chair, House Committee.

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 516, Relating to PEIA in-patient rates.

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 T. Azinger,
Chair.

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

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 535, Relating to rebuttable presumption for certain injuries and diseases from employment as firefighter.

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

Com. Sub. for Senate Bill 535 (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to extending the expiration date of workers' compensation rebuttable presumptions regarding leukemia, lymphoma, and multiple myeloma arising out of and in the course of professional firefighter employment.

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,

Michael T. Azinger,
Chair.

The bill (Com. Sub. for S. B. 535), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 587, Making contract consummation with state more efficient.

And reports the same back with the recommendation that it 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 601, Relating generally to public employees grievance procedure.

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

Com. Sub. for Senate Bill 601 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §6C-2-2, §6C-2-3, and §6C-2-6 of the Code of West Virginia, 1931, as

amended, all relating to West Virginia public employee grievance procedure; establishing exceptions to the definition of grievance; requiring a signed and notarized grievance form; outlining the grievance motion to dismiss procedure; and providing for the payment of attorneys fees upon a determination that a grievance or defense was brought in bad faith.

And,

Senate Bill 673, Relating to venue for bringing civil action or arbitration proceedings under construction contracts.

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

Com. Sub. for Senate Bill 673 (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 §56-1-1b, relating to venue for bringing a civil action or conducting proceedings under a construction contract; providing definitions; requiring that construction contracts entered into on or after July 1, 2021; provide that any civil action or arbitration called for or permitted by the contract take place in West Virginia; and providing that any provision in construction contracts mandating that civil actions or arbitrations take place outside West Virginia is unenforceable.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 693, Updating certain definitions and terms used in WV Personal Income Tax Act.

Eng. Com. Sub. for House Bill 2896, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

Eng. House Bill 2901, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

Eng. House Bill 2903, Making a supplementary appropriation to the Department of Homeland Security, West Virginia State Police.

And,

Eng. House Bill 2940, Making a supplementary appropriation to the Department of Education, State Board of Education – State Department of Education.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, one of the bills (S. B. 693) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Sypolt—1.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill 693 was then 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 (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Sypolt—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 693) 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 (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Sypolt—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 693) takes effect from passage.

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

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 Joint Resolution 9, Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment.

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

Com. Sub. for Senate Joint Resolution 9 (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to authorizing the Legislature by general law to exempt veterans who are awarded 100 percent service-connected disability from paying all or part of the ad valorem real property taxes on the property comprising their residences; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

And,

Senate Joint Resolution 10, Limiting the Terms of Members of the House of Delegates and Senate Amendment.

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

Com. Sub. for Senate Joint Resolution 10 (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, amending section three, article VI thereof, relating generally to limiting the number of terms delegates and senators may serve; limiting delegates to six consecutive terms; limiting senators to three consecutive terms; establishing beginning date of limitation; declaring partial terms count as full terms; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the two committee substitutes be adopted; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

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

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

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

Eng. Com. Sub. for House Bill 2094, Relating to the juvenile restorative justice programs.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Eng. Com. Sub. for House Bill 2221, Relating to the establishment of an insurance innovation process.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael T. Azinger,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Banking and Insurance pending.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2382, Authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards.

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

Respectfully submitted,

Charles S. Trump IV,
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 2898, Making a supplementary appropriation to WorkForce West Virginia – Workforce Investment Act.

And has amended same.

And,

Eng. House Bill 2941, Supplementary appropriation decreasing an existing item and adding a new item of appropriation to the Department of Revenue, Insurance Commissioner.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

The Senate proceeded to the sixth order of business.

Senator Unger offered the following resolution:

Senate Resolution 27—Designating March 23, 2021, as Recovery Community Day at the Capitol.

Whereas, As recently as 2018, there were more than 700 overdose deaths in West Virginia and over 46,000 overdose deaths nationally involving the use of at least one opioid; and

Whereas, The coronavirus disease (COVID-19) pandemic and disruption to daily life has affected those with substance abuse substantially more, leading to an increase in opioid overdose in 37 of the 38 jurisdictions which provide data to the Centers for Disease Control and Prevention; and

Whereas, West Virginia has the highest number of opioid-related deaths per capita in the United States; and

Whereas, As many as 40,000 people nationally, including 4,000 youth, seek treatment for illegal drug use and fail to receive it in any given year; and

Whereas, One in 13 individuals 12 or older, and one in seven young adults aged 18-25, needed some form of intervention for substance use annually from 2015-2018; and

Whereas, Statistically, at least one student in every middle school and high school classroom in 2015-2018 needed treatment for substance use; and

Whereas, More than one in six high school students report drinking alcohol for the first time prior to turning 13; and

Whereas, In 2018, Congress enacted Public Law 115-271, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, known as the SUPPORT for Patients and Communities Act to address the nationwide opioid crisis; and

Whereas, A “recovery coach” is defined in the SUPPORT for Patients and Communities Act as an individual with knowledge of, or experience with, recovery from a substance use disorder who has completed training from, and is in good standing with, a recovery services organization capable of conducting such training and making such a determination; and

Whereas, Recovery coaches assist individuals in recovery by fostering social interactions, sharing experiences, promoting wellness and improved quality of life, improving coping skills, and supporting acceptance of illnesses or life situations; and

Whereas, Youth life/recovery coaches promote recovery by removing barriers and obstacles to social, emotional, and growth mindset learning and serving as personal guides and mentors for young people who are seeking help with life transitions and their journey to adulthood; and

Whereas, By working with recovery coaches, peers, and others in the community, individuals in recovery are able to establish a connection with society, gain and provide hope for others, counter the associated stigmas, and share the perspectives and truths gained during the journey; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 23, 2021, as Recovery Community Day at the Capitol; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Recovery Community Day.

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

Thereafter, at the request of Senator Woelfel, and by unanimous consent, the remarks by Senator Unger regarding the adoption of Senate Resolution 27 were ordered printed in the Appendix to the Journal.

At the request of Senator Lindsay, unanimous consent being granted, the remarks by Senator Romano regarding the adoption of Senate Resolution 27 were ordered printed in the Appendix to the Journal.

Petitions

Senator Sypolt presented a petition from Chris Walker and numerous West Virginia residents, requesting the Legislature to repeal the state's helmet law.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 40, Requesting study on benefits of deferred retirement option program for State Police.

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

Senate Concurrent Resolution 41, Requesting study on legal process for collection and enforcement of delinquent taxes and lands.

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

Senate Concurrent Resolution 42, Firefighter Marvin Layton Hughes 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 43, US Army PVT Joseph Stanley McKinney 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 44, Harrison County 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 Concurrent Resolution 45, Dennis E. Davis Veterans Nursing Home.

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

Senate Concurrent Resolution 46, Stanley W. and Evelyn C. See 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 47, US Navy HM3 Roy Elmer “Doody” Moon 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 48, US Army PFC Billy Keith Ford 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 49, Requesting study on development and expansion of municipal recycling programs.

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

Senate Concurrent Resolution 50, USMC SGT MAJ Herman H. Brawner and Fayma Brawner 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 51, Henry Preston Hickman 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 24, Urging President appoint Dr. Rahul Gupta as Director of Office of National Drug Control Policy.

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

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

Senate Resolution 25, Recognizing 100th anniversary of American Physical Therapy Association.

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

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

(Senator Trump in the Chair.)

The question being on the adoption of the resolution, the same was put and prevailed.

Senate Resolution 26, Congratulating Wheeling Park High School Speech and Debate Team for winning state championship.

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

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

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

The question being on the adoption of the resolution, the same was put and prevailed.

Thereafter, at the request of Senator Lindsay, and by unanimous consent, the remarks by Senators Ihlenfeld and Azinger regarding the adoption of Senate Resolution 26 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 395, Expanding PEIA Finance Board membership.

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 (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt (by proxy), Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 395) 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 398, Limiting eligibility of certain employers to participate in PEIA plans.

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, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt (by proxy), Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Baldwin and Romano—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 398) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt (by proxy), Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Baldwin and Romano—2.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 398) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 478, Permitting use of established federal marketplace programs to purchase supplies.

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 (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt (by proxy), Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 478) 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 479, Relating to WV veterans service decoration and WV Service Cross.

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 (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt (by proxy), Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 479) 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 509, Removing requirement that determination of medical stability be found prior to admission to mental health facility.

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

At the request of Senator Stollings, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Stollings, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page one, section three, line three, after the word “code” by inserting the words “upon a finding by a licensed physician that the individual is medically stable,”;

On page two, section three, line fifteen, after the word “court” by striking out the remainder of the subdivision;

On page two, section three, line eighteen, by striking out the words “admission to” and inserting in lieu thereof the words “evaluation by”;

On page two, section three, line eighteen, after the word “facility” by inserting the words “as defined by §27-1-9 of this code,”;

On page two, section three, line nineteen, after the word “care,” by striking out the word “may” and inserting in lieu thereof the word “shall”;

On page two, section three, line nineteen, after the word “individual” by inserting the words “if clinically indicated”;

On page two, section three, line twenty-three, after (3), by inserting the following: “Notwithstanding anything herein to the contrary, the requirement for a licensed physician to make a finding that the individual is medically stable as provided by subdivision (1) of this subsection shall be stayed pending the evaluation of medical stability and medical clearance of such individuals as provided in subdivision (4) of this subsection: *Provided, That,*”;

On page two, section three, lines twenty-seven through twenty-nine, by striking out all of subdivision (4) and inserting in lieu thereof a new subdivision (4), to read as follows:

(4) The Secretary of the Department of Health and Human Resources shall, in collaboration with designees from each of the Supreme Court of Appeals, the Behavioral Health Care Providers Association, Disability Rights of West Virginia, the West Virginia Sheriff’s Association, the Board of Medicine, the West Virginia Psychiatric Association, West Virginia University and Marshall University with education, training, and/or experience in: (i) Issues related to medical stability and medical clearance of individuals to be involuntarily committed to a state hospital; and (ii) acute disease processes presenting as psychiatric emergencies, undertake an evaluation of the requirement that an individual be medically stable as provided in subdivision (1) of this subsection. No later than July 31, 2021, the secretary and the designees shall submit recommended draft

legislation and any other written report of such evaluation to the President of the Senate and the Speaker of the House of Delegates.;

And,

On page four, section three-a, after line five, by adding the following:

§27-5-10. Transportation for the mentally ill or persons with substance use disorder.

(a) Whenever transportation of an individual is required under the provisions of §27-4-1 *et seq.* and §27-5-1 *et seq.* of this code, the sheriff shall provide immediate transportation to or from the appropriate mental health facility or state hospital: *Provided*, That, where hospitalization occurs pursuant to §27-4-1 *et seq.* of this code, the sheriff may permit, upon the written request of a person having proper interest in the individual's hospitalization, for the interested person to arrange for the individual's transportation to the mental health facility or state hospital if the sheriff determines that those means are suitable given the individual's condition.

(b) Upon written agreement between the county commission on behalf of the sheriff and the directors of the local community mental health center and emergency medical services, an alternative transportation program may be arranged. The agreement shall clearly define the responsibilities of each of the parties, the requirements for program participation, and the persons bearing ultimate responsibility for the individual's safety and well-being.

(c) *Use of certified municipal law-enforcement officers.* — Sheriffs and municipal governments may enter into written agreements by which certified municipal law-enforcement officers may perform the duties of the sheriff as described in this article. The agreement shall determine jurisdiction, responsibility of costs, and all other necessary requirements, including training related to the performance of these duties, and shall be approved by the county commission and circuit court of the county in which the agreement is made. For purposes of this subsection, "certified municipal law-enforcement officer" means any duly authorized member of a municipal law-enforcement agency who is empowered to maintain public peace and order, make arrests, and enforce the laws of this state or any political subdivision thereof, other than parking ordinances, and who is currently certified as a law-enforcement officer pursuant to §30-29-1 *et seq.* of this code.

(d) In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff or certified municipal law-enforcement officer shall contact the state hospital in advance of the transportation to determine if the state hospital has suitable bed capacity to place the individual. In the event the sheriff or municipal law-enforcement office is informed by the state hospital that the state hospital lacks suitable bed capacity to place such individual, the sheriff or certified municipal law-enforcement officer shall transport such individual to a diversion facility in the state as designated by the chief medical officer of the state hospital.

(e) Nothing in this section is intended to alter security responsibilities for the patient by the sheriff unless mutually agreed upon as provided in subsection (c) of this section.

Following discussion,

The question being on the adoption of the amendments offered by Senator Stollings to the bill, the same was put and did not prevail.

On motion of Senator Plymale, the following amendment to the bill (Eng. Com. Sub. for S. B. 509) was next reported by the Clerk:

On page four, section three-a, after line five, by adding a new section, designated section ten, to read as follows:

§27-5-10. Transportation for the mentally ill or persons with substance use disorder.

(a) Whenever transportation of an individual is required under the provisions of §27-4-1 *et seq.* and §27-5-1 *et seq.* of this code, the sheriff, arresting officer, or certified municipal law-enforcement officer shall provide immediate transportation to or from the appropriate mental health facility or state hospital: *Provided*, That, where hospitalization occurs pursuant to §27-4-1 *et seq.* of this code, the sheriff may permit, upon the written request of a person having proper interest in the individual's hospitalization, for the interested person to arrange for the individual's transportation to the mental health facility or state hospital if the sheriff determines that those means are suitable given the individual's condition.

(b) Upon written agreement between the county commission on behalf of the sheriff and the directors of the local community mental health center and emergency medical services, an alternative transportation program may be arranged. The agreement shall clearly define the responsibilities of each of the parties, the requirements for program participation, and the persons bearing ultimate responsibility for the individual's safety and well-being.

(c) *Use of certified municipal law-enforcement officers.* — Sheriffs and municipal governments may enter into written agreements by which certified municipal law-enforcement officers may perform the duties of the sheriff as described in this article. The agreement shall determine jurisdiction, responsibility of costs, and all other necessary requirements, including training related to the performance of these duties, and shall be approved by the county commission and circuit court of the county in which the agreement is made. For purposes of this subsection, "certified municipal law-enforcement officer" means any duly authorized member of a municipal law-enforcement agency who is empowered to maintain public peace and order, make arrests, and enforce the laws of this state or any political subdivision thereof, other than parking ordinances, and who is currently certified as a law-enforcement officer pursuant to §30-29-1 *et seq.* of this code.

(d) In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff or certified municipal law-enforcement officer shall contact the state hospital in advance of the transportation to determine if the state hospital has suitable bed capacity to place the individual. In the event the sheriff, arresting officer, or certified municipal law-enforcement officer is informed by the state hospital that the state hospital lacks suitable bed capacity to place such individual, the sheriff, arresting officer, or certified municipal law-enforcement officer shall transport such individual to a diversion facility in the state as designated by the chief medical officer of the state hospital.

(e) Nothing in this section is intended to alter security responsibilities for the patient by the sheriff unless mutually agreed upon as provided in subsection (c) of this section.

At the request of Senator Plymale, and by unanimous consent, further consideration of the bill (Eng. Com. Sub. for S. B. 509) and Senator Plymale's pending amendment were deferred until the conclusion of bills on today's second reading calendar.

Eng. Com. Sub. for Senate Bill 586, Providing WV veterans discounts on fees and charges at state parks.

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 (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt (by proxy), Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 586) passed with its title.

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

Eng. House Bill 2905, Relating to repealing the prohibition against the use of certain words.

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 House Bill 2905 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin (by proxy), Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt (by proxy), Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2905) passed.

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

Eng. House Bill 2905—A Bill to repeal §61-10-21 of the Code of West Virginia, 1931, as amended, relating to the criminal offense of using the word “Doctor” or the abbreviation “Dr.”, without specifying the type of degree held.

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 361, Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor.

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

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

Com. Sub. for Senate Bill 436, Relating generally to solid waste facilities.

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

On motion of Senator Maynard, 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:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

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.

(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 the 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 15th 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 the amount as he or she failed to collect, plus applicable additions to tax, penalties, and interest imposed by §11-10-1 *et seq.* 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 the operator to collect the fees which become collectible after service of the notice, to deposit the

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 the fees in the account until remitted to the Tax Commissioner. The 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 §11-10-1 *et seq.* 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 the 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 §7-5-22 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 §24A-1-1 *et seq.* 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 14 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 facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by~~ persons utilizing the facility on a cost-sharing or nonprofit basis; ~~or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30 day aggregate 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 the 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 30 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. The records must be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding the provisions of §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* 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 the provisions of §11-9-2 of this code and, §11-3-3 through §11-3-17, inclusive, 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 25 cents 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 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 the 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 the county or regional authority and shall deposit the 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 §22C-3-1 *et seq.* of this code; and

(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 §22-15-1 of this code, 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 the 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 Division of Highways district where the waste is deposited 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 the sites, and that experience congestion caused, in whole or in part, by the trucks and traffic that interferes with the use of said roads by residents in the vicinity of the roads: *Provided*, That up to \$750,000 from the 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 §22-15-8(j) of this code. 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.

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.

§22-15A-19. Recycling assessment fee; regulated motor carriers; dedication of proceeds; criminal penalties.

(a) *Imposition.* — A recycling assessment fee is hereby levied and imposed upon the disposal of solid waste at all solid waste disposal facilities in this state, to be collected at the rate of \$2 per ton or part of a ton of solid waste. The fee imposed by this section is in addition to all other fees levied by law.

(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 that 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 15th day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator shall 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 they are 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 the amount that he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by §11-10-1 *et seq.* 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 the operator to collect the fees which become collectible after service of the notice, to deposit the 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 the fees in the account until remitted to the Tax Commissioner. The 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 of the association or corporation 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 §11-10-1 *et seq.* of this code may be enforced against them and against the association or corporation which they represent; and

(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 the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under §24A-1-1 *et seq.* 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 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal service. In calculating the amount of the fee to the 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.* — For purposes of this section, "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 facility within this state that collects the fee imposed by this section.

Nothing in this section 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 facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by persons~~ utilizing the facility on a cost-sharing or nonprofit basis; ~~or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30 day aggregate basis;~~

(2) Reuse or recycling of any solid waste; and

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on the days and times designated by the secretary by rule as exempt from the fee imposed pursuant to §22-15-11 of this code.

(f) *Procedure and administration.* — Notwithstanding the provisions of §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as if the act were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 ~~of this code and~~, sections §11-9-3 through §11-9-17 of this code apply to the fee imposed by this section with like effect as if the sections were the only fee imposed by this section and were set forth in extenso in this section.

(h) *Dedication of proceeds.* — The proceeds of the fee collected pursuant to this section shall be deposited by the Tax Commissioner, at least monthly, in a special revenue account designated

as the Recycling Assistance Fund which is hereby continued and transferred to the Department of Environmental Protection. The secretary shall allocate the proceeds of the fund as follows:

(1) Fifty percent of the total proceeds shall be provided in grants to assist municipalities, counties, and other interested parties in the planning and implementation of recycling programs, public education programs and recycling market procurement efforts, established pursuant to this article. The secretary shall promulgate rules, in accordance with ~~§29A-1-1 et seq.~~ §29A-3-1 et seq. of this code, containing application procedures, guidelines for eligibility, reporting requirements, and other matters considered appropriate: *Provided*, That persons responsible for collecting, hauling, or disposing of solid waste who do not participate in the collection and payment of the solid waste assessment fee imposed by this section in addition to all other fees and taxes levied by law for solid waste generated in this state which is destined for disposal, are not eligible to receive grants under the provisions of this article;

(2) Twelve and one-half percent of the total proceeds shall be expended for personal services and benefit expenses of full-time salaried natural resources police officers;

(3) Twelve and one-half percent of the total proceeds shall be directly allocated to the solid waste planning fund;

(4) Twelve and one-half percent of the total proceeds shall be transferred to the Solid Waste Reclamation and Environmental Response Fund, established pursuant to §22-15-11 of this code, to be expended by the Department of Environmental Protection to assist in the funding of the pollution prevention and open dumps program (PPOD) which encourages recycling, reuse, waste reduction, and clean-up activities; and

(5) Twelve and one-half percent of the total proceeds shall be deposited in the Hazardous Waste Emergency Response Fund established in §22-19-1 *et seq.* of this code.

ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.

§22-16-4. Solid waste assessment fee; penalties.

(a) *Imposition.* — A solid waste assessment fee is levied and imposed upon the disposal of solid waste at any solid waste disposal facility in this state in the amount of \$3.50 per ton or like ratio on any part of a ton of solid waste, except as provided in subsection (e) of this section: *Provided*, That any solid waste disposal facility may deduct from this assessment fee an amount, not to exceed the fee, equal to the amount that the facility is required by the Public Service Commission to set aside for the purpose of closure of that portion of the facility required to close by §22-15-1 *et seq.* of this code. 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.

(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 that 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 15th day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator shall file returns on forms and in the manner 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 they are 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 the amount he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by §11-10-1 *et seq.* 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 the operator to collect the fees which become collectible after service of the notice, to deposit the 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 the fees in the account until remitted to the Tax Commissioner. The notice shall remain 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 of the association or corporation 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 §11-10-1 *et seq.* of this code may be enforced against them as against the association or corporation which they represent; and

(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 the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under §24A-1-1 *et seq.* 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 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal service. In calculating the amount of the fee to the 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) *Definitions.* — 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 facility within this state that collects the fee imposed by this section. Nothing in this section 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 facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by persons~~ utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30 day aggregate 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 the days and times designated by the director as 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 30 percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler shall keep accurate records of incoming and outgoing waste by weight. The records shall be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the “West Virginia Tax Procedure and Administration Act” set forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as if the act were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 ~~of this code~~ and, sections §11-9-3 through §11-9-17 of this code apply to the fee imposed by this section with like effect as if the sections were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(h) *Dedication of proceeds.* — (1) The proceeds of the fee collected pursuant to this section shall be deposited in the closure cost assistance fund established pursuant to §22-16-12 of this code: *Provided*, That the director may transfer up to 50 cents for each ton of solid waste disposed of in this state upon which the fee imposed by this section is collected on or after July 1, 1998, to the solid waste enforcement fund established pursuant to §22-15-11 of this code.

(2) Fifty percent of the proceeds of the fee collected pursuant to this article in excess of 30,000 tons per month from any landfill which is permitted to accept in excess of 30,000 tons per month pursuant to §22-15-9 of this code shall be remitted, at least monthly, to the county commission in the county in which the landfill is located. The remainder of the proceeds of the fee collected pursuant to this section shall be deposited in the closure cost assistance fund established pursuant to §22-16-12 of this code.

CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS, AND COMPACTS.

ARTICLE 4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.

§22C-4-30. Solid waste assessment interim fee; regulated motor carriers; dedication of proceeds; criminal penalties.

(a) *Imposition.* — Effective July 1, 1989, a solid waste assessment fee is hereby levied and imposed upon the disposal of solid waste at any solid waste disposal facility in this state to be collected at the rate of \$1 per ton or part thereof of solid waste. The fee imposed by this section is in addition to all other fees levied by law.

(b) *Collection, return, payment, and record.* — 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 15th 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 they are 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 §11-10-1 *et seq.* 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 §11-10-1 *et seq.* 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 §7-5-22 of this code is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under §24A-1-1 *et seq.* 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 14 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 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 facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by persons utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30 day aggregate 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 director of the Division of Environmental Protection as exempt from the fee imposed pursuant to §22-15-11 of this code; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of 30 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 of Environmental Protection of solid waste authority, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code applies 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 §11-9-2 of this code, sections §11-9-3 through §11-9-17 of this code apply to the fee imposed by this section with like effect as if said sections were the only 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 a special revenue account known as the Solid Waste Planning Fund which is hereby continued. The solid waste management board shall allocate the proceeds of the said fund as follows:

(1) Fifty percent of the total proceeds shall be divided equally among, and paid over, to, each county solid waste authority to be expended for the purposes of this article: *Provided*, That where a regional solid waste authority exists, such funds shall be paid over to the regional solid waste authority to be expended for the purposes of this article in an amount equal to the total share of all counties within the jurisdiction of said regional solid waste authority; and

(2) Fifty percent of the total proceeds shall be expended by the solid waste management board for:

(A) Grants to the county or regional solid waste authorities for the purposes of this article; and

(B) Administration, technical assistance, or other costs of the solid waste management board necessary to implement the purposes of this article and §22C-3-1 *et seq.* of this code.

(i) *Effective date.* — This section is effective on July 1, 1990.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1m. Commission jurisdiction does not extend to materials recovery facilities, mixed waste processing facilities, and oil and natural gas solid waste disposal.

Notwithstanding any other provision of this code, the jurisdiction of the commission does not extend to materials recovery facilities or mixed waste processing facilities as defined by §22-15-2 of this code, except within a 35 mile radius of a facility sited in a county that is, in whole or in part, within a karst region as determined by the West Virginia Geologic and Economic Survey that has been permitted and classified by the ~~WVDEP~~ West Virginia Department of Environment Protection as a mixed waste processing resource recovery facility and has received a certificate of need by July 1, 2016: *Provided*, That nothing in this section shall affect the requirements of §24A-2-5 and §24A-3-3 of this code: *Provided, however, That the jurisdiction of the commission does not extend to any mixed waste processing and resource recovery facility.*

The bill (Com. Sub. for S. B. 436), as amended, was then ordered to engrossment and third reading.

Senate Bill 486, Relating to powers and duties of Chief Technology Officer.

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 487, Updating Division of Purchasing procurement and spending thresholds.

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

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

Com. Sub. for Senate Bill 551, Revising forms of living will, medical power of attorney, and combined medical power of attorney and living will.

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 565, Relating generally to elections.

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

Senate Bill 577, Exempting certain fire departments from licensure requirements for providing rapid response services.

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 590, Removing restriction preventing medical marijuana from being in edible form.

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 610, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV.

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

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

Senate Bill 644, Exempting certain persons pursuing degree in speech pathology and audiology from license requirements.

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

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

Senate Bill 651, Allowing county boards of education to publish financial statements on website.

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

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

Com. Sub. for Senate Bill 658, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children.

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

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

Eng. Com. Sub. for House Bill 2621, Mandating certification for certain members of fire departments, require certain types of training, allow specialized personnel who are not firefighters to be members of a department, and require the postings of fire department evaluations.

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

Eng. Com. Sub. for House Bill 2797, Declaring certain claims to be moral obligations of the State.

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

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

On page two, section one, subsection (d), by striking out the word "GENERAL" and inserting in lieu thereof the word "SPECIAL".

The bill (Eng. Com. Sub. for H. B. 2797), as amended, was then ordered to third reading.

Eng. House Bill 2854, Relating to the West Virginia Municipal Police Officers and Firefighters Retirement System.

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

Eng. Com. Sub. for House Bill 2855, Relating to the Natural Resources Police Officers Retirement System.

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

The end of today's second reading calendar having been reached, the Senate returned to the consideration of

Eng. Com. Sub. for Senate Bill 509, Removing requirement that determination of medical stability be found prior to admission to mental health facility.

On third reading, coming up in deferred order, with Senator Plymale's amendment to the bill pending, was again reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with Senator Plymale's amendment to the bill pending.

(Senator Clements in the Chair.)

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 483, Allowing oaths be taken before any person authorized to administer oaths.

And,

Eng. Com. Sub. for House Bill 2400, Authorizing the Department of Transportation to promulgate legislative rules.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Hamilton and Beach.

At the request of Senator Beach, and by unanimous consent, the Senate stood in observance of a moment of silence in recognition of the victims of the various mass shootings that have taken place in the United States.

At the request of Senator Woelfel, unanimous consent being granted, the remarks by Senator Hamilton were ordered printed in the Appendix to the Journal.

At the request of Senator Lindsay, and by unanimous consent, the remarks by Senator Beach were ordered printed in the Appendix to the Journal.

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

The Senate then proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills on March 22, 2021:

Com. Sub. for Senate Bill 464: Senator Hamilton;

And,

Senate Bill 649: Senator Lindsay.

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 22, 2021:

Senate Bill 516: Senator Hamilton;

Senate Bill 535: Senator Hamilton;

Senate Bill 622: Senator Caputo;

Senate Bill 666: Senator Karnes;

- Senate Bill 675:** Senator Karnes;
- Senate Bill 677:** Senators Karnes and Lindsay;
- Senate Bill 680:** Senator Roberts;
- Senate Bill 681:** Senator Karnes;
- Senate Bill 683:** Senators Baldwin and Roberts;
- Senate Bill 685:** Senators Smith and Karnes;
- Senate Bill 688:** Senators Romano and Lindsay;
- Senate Bill 689:** Senators Jeffries and Stollings;
- Senate Bill 690:** Senator Lindsay;
- Senate Bill 692:** Senator Smith;
- Senate Bill 694:** Senators Jeffries, Romano, and Lindsay;
- Senate Bill 697:** Senators Jeffries, Romano, and Karnes;
- Senate Bill 699:** Senator Karnes;
- Senate Bill 700:** Senator Karnes;
- Senate Bill 701:** Senators Lindsay and Romano;
- Senate Bill 703:** Senator Roberts;
- Senate Bill 705:** Senators Stollings, Baldwin, and Woelfel;
- Senate Bill 706:** Senator Lindsay;
- Senate Bill 708:** Senator Stollings;
- Senate Bill 709:** Senator Karnes;
- Senate Joint Resolution 9:** Senators Weld and Lindsay;
- Com. Sub. for Senate Joint Resolution 11:** Senator Lindsay;
- Senate Concurrent Resolution 40:** Senators Jeffries, Romano, and Lindsay;
- Senate Concurrent Resolution 42:** Senators Jeffries and Lindsay;
- Senate Concurrent Resolution 43:** Senators Jeffries and Lindsay;
- Senate Concurrent Resolution 44:** Senators Jeffries and Lindsay;

Senate Concurrent Resolution 45: Senators Jeffries, Baldwin, and Lindsay;

Senate Concurrent Resolution 46: Senators Jeffries, Smith, and Lindsay;

Senate Concurrent Resolution 47: Senators Stollings and Lindsay;

Senate Concurrent Resolution 48: Senators Jeffries, Stollings, and Lindsay;

Senate Concurrent Resolution 49: Senators Baldwin and Lindsay;

Senate Concurrent Resolution 50: Senators Caputo, Jeffries, and Lindsay;

Senate Concurrent Resolution 51: Senators Jeffries and Lindsay;

Senate Resolution 24: Senators Rucker, Jeffries, Baldwin, Romano, Roberts, and Lindsay;

Senate Resolution 25: Senators Rucker, Caputo, and Romano;

And,

Senate Resolution 26: Senators Rucker, Jeffries, Clements, and Lindsay.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:56 p.m., the Senate adjourned until tomorrow, Wednesday, March 24, 2021, at 11 a.m.

SENATE CALENDAR

**Wednesday, March 24, 2021
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 5 - Urging Congress call Article V convention to impose fiscal restraints on federal government

THIRD READING

Eng. Com. Sub. for S. B. 436 - Relating generally to solid waste facilities

Eng. S. B. 486 - Relating to powers and duties of Chief Technology Officer

Eng. Com. Sub. for S. B. 509 - Removing requirement that determination of medical stability be found prior to admission to mental health facility - (Amend. pending)

Eng. Com. Sub. for S. B. 551 - Revising forms of living will, medical power of attorney, and combined medical power of attorney and living will

Eng. Com. Sub. for S. B. 565 - Relating generally to elections

Eng. S. B. 577 - Exempting certain fire departments from licensure requirements for providing rapid response services

Eng. Com. Sub. for S. B. 590 - Removing restriction preventing medical marijuana from being in edible form

Eng. Com. Sub. for H. B. 2621 - Mandating certification for certain members of fire departments, require certain types of training, allow specialized personnel who are not firefighters to be members of a department, and require the postings of fire department evaluations (original similar to SB471)

Eng. Com. Sub. for H. B. 2797 - Declaring certain claims to be moral obligations of the State

Eng. H. B. 2854 - Relating to the West Virginia Municipal Police Officers and Firefighters Retirement System

Eng. Com. Sub. for H. B. 2855 - Relating to the Natural Resources Police Officers Retirement System

SECOND READING

Com. Sub. for S. B. 361 - Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor

Com. Sub. for S. B. 483 - Allowing oaths be taken before any person authorized to administer oaths

Com. Sub. for S. B. 487 - Updating Division of Purchasing procurement and spending thresholds

- Com. Sub. for S. B. 610 - Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV
- S. B. 644 - Exempting certain persons pursuing degree in speech pathology and audiology from license requirements
- S. B. 651 - Allowing county boards of education to publish financial statements on website
- Com. Sub. for S. B. 658 - Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children
- Eng. Com. Sub. for H. B. 2400 - Authorizing the Department of Transportation to promulgate legislative rules - (Com. amend. and title amend. pending)

FIRST READING

- Com. Sub. for S. B. 587 - Making contract consummation with state more efficient (original similar to HB3059)
- Com. Sub. for S. B. 601 - Relating generally to public employees grievance procedure
- Com. Sub. for S. B. 673 - Relating to venue for bringing civil action or arbitration proceedings under construction contracts
- Com. Sub. for S. J. R. 9 - Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment
- Com. Sub. for S. J. R. 10 - Limiting the Terms of Members of the House of Delegates and Senate Amendment
- Eng. Com. Sub. for H. B. 2094 - Relating to the juvenile restorative justice programs - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2382 - Authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards
- Eng. Com. Sub. for H. B. 2896 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services
- Eng. H. B. 2898 - Making a supplementary appropriation to WorkForce West Virginia – Workforce Investment Act - (Com. amend. pending)
- Eng. H. B. 2901 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services
- Eng. H. B. 2903 - Making a supplementary appropriation to the Department of Homeland Security, West Virginia State Police
- Eng. H. B. 2940 - Making a supplementary appropriation to the Department of Education, State Board of Education – State Department of Education
- Eng. H. B. 2941 - Supplementary appropriation decreasing an existing item and adding a new item of appropriation to the Department of Revenue, Insurance Commissioner - (Com. amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2021

Wednesday, March 24, 2021

10 a.m.	Interstate Cooperation	(Room 451M)
10 a.m.	Workforce	(Room 208W)
2 p.m.	Pensions	(Room 451M)