

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE
REGULAR SESSION, 2024
THIRTIETH DAY

Charleston, West Virginia, Thursday, February 8, 2024

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Mike Harper, North Hills Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Amy N. Grady, a senator from the fourth district.

Pending the reading of the Journal of Wednesday, February 7, 2024,

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

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

The Senate then proceeded to the third order of business.

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

Eng. House Bill 4863—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-44, relating to the creation of the Patriotic Access to Students in Schools Act; defining patriotic societies; and providing for the opportunity to speak and recruit at public schools.

Referred to the Committee on Education.

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 5018—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-5-21, relating to providing for regulatory oversight and authority governing community air monitoring programs to ensure

proper standards for data collection and evaluation through use of accurate scientific methods are used; providing definitions, including defining community air monitoring programs with exceptions; providing for circumstances when the Department of Environmental Protection may use the collected data and for what purposes; limiting the use of said data by the department and other persons; providing that the data may not be used directly for regulating pollutants under the clean air act; providing that the data may not be used to issue a fine, penalty, or notice of violation against the operator of a stationary source; providing that the data may not be used as evidence in an administrative, regulatory, judicial enforcement action, or third-party lawsuit or proceeding against the operator of a stationary source; and providing for rulemaking authority.

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

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

Eng. House Bill 5056—A Bill to amend and reenact §18A-4-8h of the Code of West Virginia, 1931, as amended, relating to allowing for service personnel to serve as substitute workers under certain conditions.

Referred to the Committee on Education; and then 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. Com. Sub. for House Bill 5122—A Bill to amend and reenact §7-14-8 and §8-14-12 of the Code of West Virginia, 1931, as amended, relating to civil service for deputy sheriffs; renumbering certain sections; removing age restrictions for original appointments as a deputy sheriff; clarifying the requirements for return to work of a deputy sheriff; and removing the age restrictions for original appointment as a municipal police officer.

Referred to the Committee on Government Organization.

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 5153—A Bill to amend and reenact §18C-6-1, §18C-6-2, §18C-6-3, §18C-6-4, §18C-6-5, and §18C-6-6 of the Code of West Virginia, 1931, as amended, all relating to the engineering, science, and technology scholarship.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with.

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 5158—A Bill to amend and reenact §18-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-10N-2 of said code; to amend and reenact §18-20-1 and §18-20-1a of said code; to repeal §18-20-1b of said code; to amend and reenact §18-20-1c, §18-20-1d, §18-20-2, §18-20-3, §18-20-4, §18-20-5, §18-20-6, §18-20-7, §18-20-8, §18-20-9, §18-20-10, and §18-20-11; and to amend and reenact §18A-5-1 of said code; all relating to updating statutory provisions regarding the special education code; defining local

educational agency; clarifying that districts and county boards subsumed under the local educational agency; updating definitions; updating terminology used in education of exceptional children; clarifying local educational agencies special educational programs include services outside the school environment; requiring state board's rules assuring exceptional students receive an education in accordance with state and federal laws include students in foster care and correctional facilities; clarifying services required by local educational agency that must be provided until age of majority; requiring preschool programs, special education and related services for students with disabilities or developmental delays begin services by student's 3rd birthday; clarifying preschool programs for students with disabilities or developmental delays are available to such students in mental health facilities, residential institutions, and private entities who have entered into an agreement with a local educational agency; repealing outdated code section; clarifying provisions regarding assistance, training and information to be provided to integrated classroom teachers; updating terminology for individualized education programs; clarifying minimum training for autism mentor and allowing for partial or full reimbursement of tuition for training as autism mentor; updating terminology regarding reports; requiring local educational agencies to maintain a continuum of services, including integrated classrooms and out of school environments; requiring training to integrated education and submission of annual reports; updating terminology regarding examination and reports by medical or other specialists; updating language regarding powers and duties of superintendent; updating language regarding advisory council for the education of exceptional children; updating requirements of exceptional children monitoring and accountability review teams; updating terminology regarding interagency plan for exceptional children and advisory council; updating terminology regarding gifted education caseload review; updating language regarding video cameras in self-contained classrooms; and adding language specifically prohibition against denying a student with disability from protections of federal laws.

Referred to the Committee on Education.

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 5200—A Bill to amend and reenact §18-5-18b of the Code of West Virginia, 1931, as amended, relating generally to required training for school counselors; requiring that school counselors serving students in grades PK through 12 participate in School Counselors Conference at least once every two years; setting forth required components of School Counselors Conference; requiring Conference participants receive certain credentials, graduate credit and continuing education credit; and requiring that school counselors serving students in grades 7 through 12 participate in training regarding building and trades and apprenticeship programs and setting forth the administration therefore.

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

Executive Communications

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



Jim Justice
Governor of West Virginia

February 7, 2024

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

Dear Mr. Clerk:

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

Senate Bill No. Four Hundred Sixty-Two (462), which was presented to me on February 1, 2024.

Senate Bill No. Four Hundred Eighty-Three (483), which was presented to me on February 1, 2024.

You will note that I have approved these bills on February 7, 2024.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

January 26, 2024

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

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

House Bill No. Four Thousand Two Hundred Fifty-Two (4252), which was presented to me on February 2, 2024.

House Bill No. Five Thousand Three Hundred Thirty-Two (5332), which was presented to me on February 2, 2024.

You will note that I have approved these bills on February 7, 2024.

Sincerely,

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

Jim Justice
Governor

JJ/mc

cc: The Honorable Lee Cassis

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

The Senate proceeded to the fourth order of business.

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

Your Committee on Economic Development has had under consideration:

Senate Bill 544, Raising threshold for bid requirement of municipal public works projects.

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

Com. Sub. for Senate Bill 544 (originating in the Committee on Economic Development)—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-16-1 and §8-16-5 of said code; all relating to raising the threshold from \$25,000 to \$50,000 for requirement of bids for government construction projects; clarifying definition of "Municipal public works" or "works"; and raising the threshold from \$25,000 to \$50,000 for requirement of bids for municipal public works projects.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Glenn D. Jeffries,
Chair.

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

Your Committee on Economic Development has had under consideration:

Senate Bill 564, Modifying tax credits for certain apprenticeship training.

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,

Glenn D. Jeffries,
Chair.

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

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

Your Committee on the Judiciary has had under consideration

Senate Bill 577, Limiting landowner liability when land is used for recreational purposes.

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

Com. Sub. for Senate Bill 577 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §19-25-3, §19-25-4, §19-25-5, and §19-25-6 of the Code of West Virginia,

1931, as amended, all relating generally to limiting landowner liability for injuries to, or caused by, persons entering or going upon land for noncommercial recreational purposes, wildlife propagation purposes, military training purposes, law-enforcement training purposes, or homeland defense training purposes; clarifying statutory language in light of *Mallet v. Pickens*, 206 W.Va. 145, 522 S.E.2d 436 (1999); defining terms, and making numerous technical corrections.

And,

Senate Bill 578, Clarifying definition of burglary offense.

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

Com. Sub. for Senate Bill 578 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating to clarifying that the offense of burglary involves a dwelling or outbuilding belonging to another; clarifying what constitutes a dwelling of another; and establishing criminal penalties.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration:

Senate Bill 605, Requiring electronic funds transfer of retirement contributions by participating employers.

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

Respectfully submitted,

Eric Nelson, Jr.,
Chair.

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration:

Senate Bill 606, Relating to Natural Resources Police Officers Retirement System.

Senate Bill 607, Clarifying Municipal Police Officers and Firefighters Retirement System surviving spouse benefits.

And,

Senate Bill 609, Deputy Sheriff Retirement System Act.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Eric Nelson, Jr.,
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 bills contained in the foregoing report from the Committee on Pensions.

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration:

Senate Bill 608, Emergency Medical Services Retirement System Act.

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

Com. Sub. for Senate Bill 608 (originating in the Committee on Pensions)—A Bill to amend and reenact §16-5V-18, §16-5V-23, §16-5V-24, and §16-5V-35 of the Code of West Virginia, 1931, as amended, all relating to the Emergency Medical Services Retirement System; clarifying payment upon death of member with less than 10 years of contributory service; clarifying surviving spouse benefits when member dies from duty or non-duty related cause; and clarifying age calculation for a member who elected early retirement who then returned to work.

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,

Eric Nelson, Jr.,
Chair.

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

Senator Hamilton, from the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration

Senate Bill 617, Exempting certain meat processes from consumers sales and service tax.

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

Com. Sub. for Senate Bill 617 (originating in the Committee on Agriculture and Natural Resources)—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to exempting the processing of beef, pork, lamb, or goat by a slaughterhouse for an individual owner of the product processed from the consumer sales and service tax.

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,

Bill Hamilton,
Chair.

The bill (Com. Sub. for S. B. 617), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 658, Supplementing and amending appropriations to Department of Administration, Public Defender Services.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

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

Your Committee on Economic Development has had under consideration:

Senate Bill 669, Relating to county economic opportunity development districts.

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

Com. Sub. for Senate Bill 669 (originating in the Committee on Economic Development)—A Bill to amend and reenact §7-22-9 of the Code of West Virginia, 1931, as amended, all relating to county economic opportunity development districts; extending when the Fort Henry Economic Opportunity Development District may be abolished or terminated; increasing the land area within the Ridges Economic Opportunity Development District subject to the special district excise tax authorizing the Mason County Commission to levy a special district excise tax; authorizing the special district excise tax for the benefit of the Town of Henderson Economic Opportunity District; setting forth the land area within the special district subject to the special district excise tax; authorizing the commission to create the district and levy the special district excise tax without the approval of the executive director of the development office; authorizing the commission to determine the base district tax, the base tax revenue amount, the gross annual district tax revenue

amount and the estimated net annual district tax revenue amount; and requiring the Tax Commissioner to provide the commission with certification of the base tax revenue amount.

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,

Glenn D. Jeffries,
Chair.

The bill (Com. Sub. for S. B. 669), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

By Senator Takubo:

Senate Bill 717—A Bill to amend and reenact §16-9A-1, §16-9A-2, §16-9A-3, §16-9A-4, §16-9A-7, and §16-9A-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-9A-2a, all relating to tobacco products; amending purpose; defining terms; prohibiting sale or gift of tobacco to persons younger than 21 years of age; setting forth fines and criminal penalties; permitting persons younger than 21 years of age to be used in inspections of tobacco retailers; making technical changes consistent with newly defined terms; removing the West Virginia Alcohol Beverage Control Administration as an agency with authority to conduct inspections; designating the Bureau for Behavioral Health as one of the agencies to conduct inspections; removing the requirement for the West Virginia Alcohol Beverage Control Administration to submit a report; requiring the Commissioner of the Bureau for Behavioral Health to submit a report; and amending language regarding vending machines to conform to the increased age requirement.

Referred to the Committee on the Judiciary.

By Senator Chapman:

Senate Bill 718—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-131, relating to ensuring equal financial support by the state for kinship parents and fictive kin as provided to certified foster parents.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senators Chapman, Azinger, Hunt, Karnes, Martin, Maynard, Roberts, Rucker, Smith, and Taylor:

Senate Bill 719—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5EE-1, relating to clarifying parent and legal guardian access to a minor child's medical records.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

By Senator Chapman:

Senate Bill 720—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-3D-1, §61-3D-2, §61-3D-3, §61-3D-4, §61-3D-5, and §61-3D-6, all relating to creating the Stop Non-Consensual Distribution of Intimate Deep Fake Media Act; providing for definitions; explaining manner of violation; providing for construction, safe harbor, and severability; providing for a penalty; and allowing injunctive relief.

Referred to the Committee on the Judiciary.

By Senator Maynard:

Senate Bill 721—A Bill to amend and reenact §49-4-604 of the Code of West Virginia, 1931, as amended, relating to final hearings on disposition of neglected and abused children; requiring that final orders be prepared and signed within 10 days of the disposition hearing.

Referred to the Committee on the Judiciary.

By Senator Barrett:

Senate Bill 722—A Bill to amend and reenact §29-22B-1406 of the Code of West Virginia, 1931, as amended, relating to revising how a permittee is subject to examination of financial records relating to limited video lottery.

Referred to the Committee on Government Organization.

By Senator Rucker:

Senate Bill 723—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1B-14, relating to creating the Unmatched Medical Graduate Advisory Council; establishing findings and purpose; establishing membership of advisory council; setting forth subjects to be addressed by advisory council in reporting; providing for selection of chair and vice chair; establishing quorum; providing that administrative support be provided by the Higher Education Policy Commission; and requiring reporting of findings and recommendations by December 31, 2024.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senator Clements:

Senate Bill 724—A Bill to amend and reenact §15A-4-15 of the Code of West Virginia, 1931, as amended, relating to allowing license plates, road signs, or markers to be obtained from alternative sources when the Division of Corrections and Rehabilitation is unable to produce an adequate supply.

Referred to the Committee on Transportation and Infrastructure.

By Senator Barrett:

Senate Bill 725—A Bill to amend and reenact §62-1C-1a and §62-1C-2 of the Code of West Virginia, 1931, as amended, all relating to pretrial release; clarifying right to pretrial release; clarifying maximum bail amount for charges for multiple misdemeanor offenses; revising definition of "bail"; establishing that defendant has right to select method of securing bail; clarifying that personal recognizance bonds shall include an unsecured monetary amount; prohibiting magistrate from setting "cash only" or "property only" bail; authorizing judicial officer to impose reasonably necessary conditions to assure defendant will appear as required, including releasing

defendant on his or her own recognizance; clarifying that magistrate may not release defendant charged with felony offense on his or her own recognizance; and making technical corrections.

Referred to the Committee on the Judiciary.

By Senator Swope:

Senate Bill 726—A Bill to amend and reenact §5A-6-1, §5A-6-3, and §5A-6-4 of the Code of West Virginia, 1931, as amended; and to repeal §5A-7-1, §5A-7-2, §5A-7-3, §5A-7-4, §5A-7-4a, §5A-7-5, §5A-7-6, §5A-7-7, §5A-7-8, §5A-7-9, §5A-7-10, and §5A-7-11 of said code, all relating to combining the Information Services and Communications Division with the West Virginia Office of Technology; transferring funds from the Information Systems and Communications Division to the Office of Technology; closing funds and transferring unexpended balances; authorizing the Chief Information Officer to conduct requisition reviews; authorizing the Chief Information Officer to collect a fee for services provided to other public bodies; authorizing the Chief Information Officer to provide guidance and technology to support electronic data retention; and requiring the Chief Information Officer to provide mail service for state spending units.

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

Senator Takubo offered the following resolution:

Senate Resolution 32—Designating February 9, 2024, as Eating Disorder Advocacy Day at the Legislature.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Resolution 29, Designating February 8, 2024, as Tucker County Day.

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

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

At the request of Senator Tarr, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the seventh order of business.

Senate Resolution 30, Designating February 8, 2024, as WV Hospital Day.

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

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

Senate Resolution 31, Designating February 8, 2024, as WV American Academy of Pediatrics Child Health Advocacy Day.

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

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 441, Restricting driving in left lane of multi-lane highways in WV.

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

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

Senate Bill 546, Updating STEM scholarship program.

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 referred to the Committee on Rules.

Com. Sub. for Senate Bill 548, Clarifying appellate jurisdiction of Intermediate Court of Appeals.

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 595, Amending embalmer licensing requirements.

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 596, Relating to administration of WV Water Pollution Control Act and Underground Carbon Dioxide Sequestration and Storage.

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 referred to the Committee on Rules.

Senate Bill 600, Revising criteria for receiving reenlistment or retention bonus .

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

Eng. Com. Sub. for House Bill 5045, Related to the administration of the West Virginia Water Pollution Control Act, and Underground Carbon Dioxide Sequestration and Storage.

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

On motion of Senator Smith, the following 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 11. WATER POLLUTION CONTROL ACT.

§22-11-4. General powers and duties of director with respect to pollution.

(a) In addition to all other powers and duties the director has and may exercise, subject to specific grants of authority to the chief or the board in this article or elsewhere in this code, the director has the following powers and authority and shall perform the following duties:

(1) To perform any and all acts necessary to carry out the purposes and requirements of this article and of the "Federal Water Pollution Control Act," 33 U.S.C. §1251 *et seq.*, as amended, relating to this state's participation in the "National Pollutant Discharge Elimination System," 33 U.S.C. §1342, established under that act;

(2) To encourage voluntary cooperation by all persons in the conservation, improvement, and development of water resources and in controlling and reducing the pollution of the waters of this state, and to advise, consult, and cooperate with all persons, all agencies of this state, the federal government, or other states, and with interstate agencies in the furtherance of the purposes of this article, and to this end and for the purpose of studies, scientific or other investigations, research, experiments, and demonstrations pertaining thereto, the division may receive moneys from such agencies, officers, and persons on behalf of the state. The division shall pay all moneys so received into a special fund hereby created in the state Treasury, which fund shall be expended under the direction of the director solely for the purpose or purposes for which the grant, gift, or contribution was made;

(3) To encourage the formulation and execution of plans by cooperative groups or associations of municipal corporations, industries, industrial users, and other users of waters of the state, who, jointly or severally, are or may be the source of pollution of such waters, for the control and reduction of pollution;

(4) To encourage, participate in, or conduct, or cause to be conducted studies, scientific or other investigations, research, experiments, and demonstrations relating to the water resources of the state and water pollution and its causes, control and reduction, and to collect data with respect thereto, all as may be deemed advisable and necessary to carry out the purposes of this article;

(5) To study and investigate all problems concerning water flow, water pollution, and the control and reduction of pollution of the waters of the state, and to make reports and recommendations with respect thereto;

(6) To collect and disseminate information relating to water pollution and the control and reduction thereof;

(7) To develop a public education and promotion program to aid and assist in publicizing the need for, and securing support for, pollution control and abatement;

(8) To sample ground and surface water with sufficient frequency to ascertain the standards of purity or quality from time to time of the waters of the state;

(9) To develop programs for the control and reduction of the pollution of the waters of the state;

(10) To exercise general supervision over the administration and enforcement of the provisions of this article, and all rules, permits and orders issued pursuant to the provisions of this article, §22-11-1 *et seq.*, §22-11A-1 *et seq.*, §22-11B-1 *et seq.*, of this code and §22B-1-1 *et seq.* of this code;

(11) In cooperation with the college of engineering at West Virginia University and the schools and departments of engineering at other institutions of higher education operated by this state, to conduct studies, scientific or other investigations, research, experiments, and demonstrations in an effort to discover economical and practical methods for the elimination, disposal, control, and treatment of sewage, industrial wastes, and other wastes, and the control and reduction of water pollution, and to this end, the director may cooperate with any public or private agency and receive therefrom, on behalf of the state, and for deposit in the state Treasury, any moneys which such agency may contribute as its part of the expenses thereof, and all gifts, donations or contributions received as aforesaid shall be expended by the director according to the requirements or directions of the donor or contributor without the necessity of an appropriation therefor, except that an accounting thereof shall be made in the fiscal reports of the division;

(12) To require the prior submission of plans, specifications, and other data relative to, and to inspect the construction and operation of, any activity or activities in connection with the issuance and revocation of such permits as are required by this article, §22-11A-1 *et seq.* and §22-11B-1 *et seq.*, of this code or the rules promulgated thereunder;

(13) To require any and all persons directly or indirectly discharging, depositing, or disposing of treated or untreated sewage, industrial wastes or other wastes, or the effluent therefrom, into or near any waters of the state or into any underground strata, and any and all persons operating an establishment which produces or which may produce or from which escapes, releases or emanates or may escape, release or emanate treated or untreated sewage, industrial wastes or other wastes, or the effluent therefrom, into or near any waters of the state or into any underground strata, to file with the division such information as the director may require in a form or manner prescribed for such purpose, including, but not limited to, data as to the kind, characteristics, amount, and rate of flow of any such discharge, deposit, escape, release, or disposition;

(14) To adopt, modify, or repeal procedural rules and interpretive rules in accordance with the provisions of Chapter 29A of this code administering and implementing the powers, duties and responsibilities vested in the director by the provisions of this article, and §22-11A-1 *et seq.* and §22-11B-1 *et seq.* of this code;

(15) To cooperate with interstate agencies for the purpose of formulating, for submission to the Legislature, interstate compacts and agreements relating to:

(A) The control and reduction of water pollution; and

(B) the state's share of waters in watercourses bordering the state;

(16) To adopt, modify, repeal, and enforce rules, in accordance with the provisions of chapter twenty-nine-a of this code:

(A) Implementing and making effective the declaration of policy contained in section one of this article and the powers, duties and responsibilities vested in the director and the chief by the provisions of this article and otherwise by law;

(B) preventing, controlling and abating pollution; and

(C) facilitating the state's participation in the "National Pollutant Discharge Elimination System" pursuant to the "Federal Water Pollution Control Act," as amended: *Provided*, That no rule adopted by the director shall specify the design of equipment, type of construction or particular method which a person shall use to reduce the discharge of a pollutant; and

(17) To advise all users of water resources as to the availability of water resources and the most practicable method of water diversion, use, development, and conservation.

(b) Whenever required to carry out the objectives of this article, §22-11A-1 *et seq.* or §22-11B-1 *et seq.* of this code, the director shall require the owner or operator of any point source or establishment to:

(i) Establish and maintain such records;

(ii) make such reports;

(iii) install, use, and maintain such monitoring equipment or methods;

(iv) sample such effluents in accordance with such methods, at such locations, at such intervals, and in such manner as the director shall prescribe; and

(v) provide such other information as the director may reasonably require.

(c) The director upon presentation of credentials:

(i) Has a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under subsection (b) of this section are located; and

(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under subsection (b) of this section, and sample any streams in the area as well as sample any effluents which the owner or operator of such source is required to sample under subsection (b) of this section. Nothing in this subsection eliminates any obligation to follow any process that may be required by law.

(d) The director ~~is hereby authorized and empowered to~~ may investigate and ascertain the need and factual basis for the establishment of public service districts as a means of controlling and reducing pollution from unincorporated communities and areas of the state, investigate and ascertain, with the assistance of the Public Service Commission, the financial feasibility and projected financial capability of the future operation of any such public service district or districts, and to present reports and recommendations thereon to the county commissions of the areas concerned, together with a request that such county commissions create a public service district or districts, as therein shown to be needed and required and as provided in §16-13A-1 *et seq.* of this code. In the event a county commission fails to act to establish a county-wide public service district or districts, the director shall act jointly with the Commissioner of the Bureau of Public

Health to further investigate and ascertain the financial feasibility and projected financial capability and, subject to the approval of the Public Service Commission, order the county commission to take action to establish such public service district or districts as may be necessary to control, reduce, or abate the pollution, and when so ordered, the county commission members must act to establish such a county-wide public service district or districts.

(e) The director ~~has the authority to~~ may enter at all reasonable times upon any private or public property for the purpose of making surveys, examinations, investigations, and studies needed in the gathering of facts concerning the water resources of the state and their use, subject to responsibility for any damage to the property entered. Upon entering, and before making any survey, examination, investigation, and study, such person shall immediately present himself or herself to the occupant of the property. Upon entering property used in any manufacturing, mining, or other commercial enterprise, or by any municipality or governmental agency or subdivision, and before making any survey, examination, investigation, and study, such person shall immediately present himself or herself to the person in charge of the operation, and if he or she is not available, to a managerial employee. All persons shall cooperate fully with the person entering such property for such purposes. Upon refusal of the person owning or controlling such property to permit such entrance or the making of such surveys, examinations, investigations, and studies, the director may apply to the circuit court of the county in which such property is located, or to the judge thereof in vacation, for an order permitting such entrance or the making of such surveys, examinations, investigations, and studies; and jurisdiction is hereby conferred upon such court to enter such order upon a showing that the relief asked is necessary for the proper enforcement of this article: *Provided*, That nothing in this subsection eliminates any obligation to follow any process that may be required by law.

§22-11-22. Civil penalties and injunctive relief; administrative penalties.

(a) Any person who violates any provision of any permit issued under or subject to the provisions of this article, or §22-11A-1 et seq., or §22-11B-1 et seq. of this code is subject to a civil penalty not to exceed \$25,000 ~~per~~ a day of such violation and any person who violates any provision of this article, §22-11A-1 et seq., or §22-11B-1 et seq. of this code or of any rule or who violates any standard or order promulgated or made and entered under the provisions of this article, §22-11A-1 et seq., §22-11B-1 et seq. of this code or §22B-1-1 et seq. of this code is subject to a civil penalty not to exceed \$25,000 ~~per~~ a day of such violation. Any such civil penalty may be imposed and collected only by a civil action instituted by the director in the circuit court of the county in which the violation occurred or is occurring or of the county in which the waters thereof are polluted as the result of such violation.

Upon application by the director, the circuit courts of the state or the judges thereof in vacation may by injunction compel compliance with and enjoin violations of the provisions of this article, §22-11A-1 et seq., and §22-11B-1 et seq. of this code, the rules of the board or director, effluent limitations, the terms and conditions of any permit granted under the provisions of this article, or §22-11A-1 et seq., and §22-11B-1 et seq. of this code or any order of the director or board, and the venue of any such actions shall be the county in which the violations or noncompliance exists or is taking place or in any county in which the waters thereof are polluted as the result of such violation or noncompliance. The court or the judge thereof in vacation may issue a temporary or preliminary injunction in any case pending a decision on the merits of any injunction application filed. Any other section of this code to the contrary notwithstanding, the state is not required to furnish bond as a prerequisite to obtaining injunctive relief under this article, or §22-11A-1 et seq., and §22-11B-1 et seq. of this code. An application for an injunction under the provisions of this section may be filed and injunctive relief granted notwithstanding that all of the administrative

remedies provided for in this article have not been pursued or invoked against the person or persons against whom such relief is sought and notwithstanding that the person or persons against whom such relief is sought have not been prosecuted or convicted under the provisions of this article.

The judgment of the circuit court upon any application filed or in any civil action instituted under the provisions of this section is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner provided by law for appeals from circuit courts in other civil cases, except that the petition seeking review in any injunctive proceeding must be filed with said Supreme Court of Appeals within 90 days from the date of entry of the judgment of the circuit court.

Legal counsel and services for the chief, director, or the board in all civil penalty and injunction proceedings in the circuit court and in the Supreme Court of Appeals of this state shall be provided by the Attorney General or his or her assistants and by the prosecuting attorneys of the several counties as well, all without additional compensation, or the chief, director, or the board, with the written approval of the Attorney General, may employ counsel to represent him or her or it in a particular proceeding.

(b) In addition to the powers and authority granted to the director by this chapter to enter into consent agreements, settlements and otherwise enforce this chapter, the director shall propose, for legislative promulgation, rules in accordance with ~~the provisions of §29A-3-1 et seq.~~ of this code to establish a mechanism for the administrative resolution of violations set forth in this section through consent order or agreement as an alternative to instituting a civil action.

§22-11-22a. Civil penalties and injunctive relief; civil administrative penalties for coal mining operations.

(a) Any person who holds a permit to operate a coal mining operation issued under article three of this chapter who violates any provision of any permit issued under or subject to the provisions of this article, or §22-11A-1 et seq. and §22-11B-1 et seq. of this code is subject to a civil penalty not to exceed \$25,000 per a day of the violation and any person who violates any provision of this article or of any rule or who violates any standard or order promulgated or made and entered under the provisions of this article, §22-11A-1 et seq. of this code or §22-11B-1 et seq. of this code is subject to a civil penalty not to exceed \$25,000 per a day of the violation: *Provided*, That any penalty imposed pursuant to the Surface Coal Mining and Reclamation Act [§22-3-1 et seq.] shall be credited against any enforcement action under this article for violations of standards protecting state waters.

(1) Any such civil penalty may be imposed and collected only by a civil action instituted by the secretary in the circuit court of the county in which the violation occurred or is occurring or of the county in which the waters thereof are polluted as the result of such violation.

(2) In determining the amount of a civil penalty, the circuit court shall consider the seriousness of the violation or violations, the economic benefit, if any, resulting from the violation, any history of the violations, any good-faith efforts to comply with the applicable requirements, cooperation by the permittee with the secretary, the economic impact of the penalty on the violator, and other matters as justice may require.

(3) Upon application by the secretary, the circuit courts of the state or the judges thereof in vacation may by injunction compel compliance with and enjoin violations of the provisions of this

article, ~~§22-7A-1~~ §22-11A-1 et seq., and §22-11B-1 et seq. of this code, the rules of the board or secretary, effluent limitations, the terms and conditions of any permit granted under the provisions of this article, §22-11A-1 et seq., and §22-11B-1 et seq. or of this code or any order of the secretary or board, and the venue of any such actions shall be the county in which the violations or noncompliance exists or is taking place or in any county in which the waters thereof are polluted as the result of the violation or noncompliance. The court or the judge thereof in vacation may issue a temporary or preliminary injunction in any case pending a decision on the merits of any injunction application filed. Any other section of this code to the contrary notwithstanding, the state is not required to furnish bond as a prerequisite to obtaining injunctive relief under this article, §22-11A-1 et seq., and §22-11B-1 et seq. of this code. An application for an injunction under the provisions of this section may be filed and injunctive relief granted notwithstanding that all of the administrative remedies provided in this article have not been pursued or invoked against the person or persons against whom such relief is sought and notwithstanding that the person or persons against whom such relief is sought have not been prosecuted or convicted under the provisions of this article.

(4) The judgment of the circuit court upon any application filed or in any civil action instituted under the provisions of this section is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner provided by law for appeals from circuit courts in other civil cases, except that the petition seeking review in any injunctive proceeding must be filed with said Supreme Court of Appeals within 90 days from the date of entry of the judgment of the circuit court.

(5) Legal counsel and services for the director, secretary, or the board in all civil penalty and injunction proceedings in the circuit court and in the Supreme Court of Appeals of this state shall be provided by legal counsel employed by the department, the Attorney General or his or her assistants and by the prosecuting attorneys of the several counties as well, all without additional compensation, or the director, secretary, or the board may employ counsel to represent him or her or it in a particular proceeding.

(b) The secretary may assess a civil administrative penalty whenever he or she finds that a person who holds a permit to operate a coal mining operation issued under article three of this chapter has violated any provision of this article, §22-11A-1 et seq., or §22-11B-1 et seq. of this code, any permit issued under or subject to the provisions of this article, §22-11A-1 et seq., or §22-11B-1 et seq. of this code or any rule or order issued pursuant to this article, §22-11A-1 et seq., or §22-11B-1 et seq. of this code. A civil administrative penalty may be assessed unilaterally by the director in accordance with this subsection.

(1) Any civil administrative penalty assessed pursuant to this section shall not exceed \$10,000 per violation and the maximum amount of any civil administrative penalty assessed pursuant to this section ~~shall may~~ not exceed \$125,000: *Provided*, That any stipulated penalties accrued after the date of the draft order ~~shall may~~ not be included for purposes of determining the total amount of the civil administrative penalty. For purposes of this section, a single operational upset which leads to simultaneous violations of more than one pollutant parameter, shall be treated as a single violation.

(2) In determining the amount of any civil administrative penalty assessed under this subsection, the secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of good faith, economic benefit or savings, if any, resulting from the violation, cooperation of the alleged violator, and such other matters as justice may require.

(3) No assessment may be levied pursuant to this subsection until after the alleged violator has been notified by certified mail or personal service pursuant to the West Virginia rules of civil procedure. The notice shall include a proposed order which refers to the provision of the statute, rule, order, or permit alleged to have been violated, a concise statement of the facts alleged to constitute the violation, a statement of the amount of the administrative penalty to be imposed, and a statement of the alleged violator's right to an informal hearing prior to the issuance of the proposed order.

(A) The alleged violator has 30 calendar days from receipt of the notice within which to deliver to the secretary a written request for an informal hearing.

(B) If no hearing is requested, the proposed order becomes a draft order after the expiration of the ~~thirty-~~ 30-day period.

(C) If an informal hearing is requested, the director shall inform the alleged violator of the time and place of the hearing. The secretary may appoint an assessment officer to conduct the informal hearing and make a written recommendation to the secretary concerning the proposed order and the assessment of a civil administrative penalty.

(D) Within 30 days following the informal hearing, the secretary shall render and furnish to the alleged violator a written decision, and the reasons therefor, concerning the assessment of a civil administrative penalty. The proposed order shall be revised, if necessary, and shall become a draft order.

(4) The secretary shall provide the opportunity for the public to comment on any draft order by publishing a Class II legal advertisement in the newspaper with the largest circulation in the county in which the violation occurred, and by other such means as the secretary deems appropriate, which shall provide notice of the draft order, including the civil administrative penalty assessment. The secretary shall consider any comments received in determining whether to revise the draft order before issuance of a final order. During the 30-day public comment period, any person may request a public hearing regarding the draft order and the secretary may grant or deny the request at his or her discretion. If a request for a public hearing is denied, the secretary shall provide notice to the person requesting a hearing and reasons for such denial.

(5) Within 30 days of the close of the public comment period on a draft order, the secretary shall issue a final order or make a determination not to issue a final order, and shall provide written notice by certified mail or personal service pursuant to the West Virginia rules of civil procedure to the alleged violator and shall provide notice by certified mail or personal service pursuant to the West Virginia rules of civil procedure to those persons who submitted written comments on the draft order during the public comment period.

(6) The issuance of a final order assessing a civil administrative penalty pursuant to subsection (b) of this section may be appealed to the environmental quality board pursuant to §22-11-21 of this code. Any person who submitted written comments on a draft order during the public comment period shall have the right to file such an appeal or intervene in any appeal filed by the alleged violator.

(7) The authority to levy a civil administrative penalty is in addition to all other enforcement provisions of this article and the payment of any assessment does not affect the availability of any other enforcement provision in connection with the violation for which the assessment is levied: *Provided*, That no combination of assessments against a violator under this section shall exceed

\$25,000 for each violation: *Provided, however,* That any violation for which the violator has paid a civil administrative penalty assessed under this section may not be the subject of a separate civil penalty action. No assessment levied pursuant to this section becomes due and payable until at least ~~thirty~~ 30 days after receipt of the final order or the procedures for review of the assessment, including any appeals, have been completed, whichever is later.

(c) In addition to the authorities set forth in this section, the secretary may also enter into agreements, settlements, and other consent orders resolving alleged violations of this chapter.

(d) The secretary shall propose, for legislative review, rules, including emergency rules, in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish procedures for assessing civil administrative penalties in accordance with this section by no later than July 1, 2015.

§22-11-24. Violations; criminal penalties.

(a) Any person who causes pollution or who fails or refuses to discharge any duty imposed upon him or her by this article, by §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code or by any rule of the board or director, promulgated pursuant to the provisions and intent of this article, or 22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, or by an order of the director or board, or who fails or refuses to apply for and obtain a permit as required by the provisions of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, or who fails or refuses to comply with any term or condition of such permit, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$1,000, ~~or by imprisonment in the county confined in jail~~ for a period not exceeding six months, or by both fine and ~~imprisonment~~ confinement.

(b) Any person who intentionally misrepresents any material fact in an application, record, report, plan, or other document filed or required to be maintained under the provisions of this article, §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code or any rules promulgated by the director thereunder is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$1,000 nor more than \$10,000 ~~or by imprisonment~~ confined in jail not exceeding six months, ~~or by both fine and imprisonment~~ confinement.

(c) Any person who willfully or negligently violates any provision of any permit issued under or subject to the provisions of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code or who willfully or negligently violates any provision of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, any rule of the board or director, any effluent limitation, or any order of the director or board is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation or by ~~imprisonment~~ confinement in jail not exceeding one year or by both fine and ~~imprisonment~~ confinement.

(d) Any person convicted of a second or subsequent willful violation of subsections (b) or (c) of this section or knowingly and willfully violates any provision of any permit, rule, or order issued under or subject to the provisions of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, or knowingly and willfully violates any provision of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility not less than one nor more than three years, or fined not more than \$50,000 for each day of violation, or both fined and imprisoned.

(e) Any person may be prosecuted and convicted under the provisions of this section notwithstanding that none of the administrative remedies provided in this article have been pursued or invoked against said person and notwithstanding that civil action for the imposition and collection of a civil penalty or an application for an injunction under the provisions of this article has not been filed against such person.

(f) Where a person holding a permit is carrying out a program of pollution abatement or remedial action in compliance with the conditions and terms of the permit, the person is not subject to criminal prosecution for pollution recognized and authorized by the permit.

§22-11-25. Civil liability; Natural Resources Game Fish and Aquatic Life Fund; use of funds.

If any loss of game fish or aquatic life results from a person or persons' failure or refusal to discharge any duty imposed upon such person by this article, section seven, article six of this chapter, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, either the West Virginia Division of Natural Resources or the Division of Environmental Protection, or both jointly may initiate a civil action on behalf of the State of West Virginia to recover from such person or persons causing such loss a sum equal to the cost of replacing such game fish or aquatic life. Any moneys so collected shall be deposited in a special revenue fund entitled "Natural Resources Game Fish and Aquatic Life Fund" and shall be expended as hereinafter provided. The fund shall be expended to stock waters of this state with game fish and aquatic life. Where feasible, the Director of the Division of Natural Resources shall use any sum collected in accordance with the provisions of this section to stock waters in the area in which the loss resulting in the collection of such sum occurred. Any balance of such sum shall remain in said fund and be expended to stock state-owned and -operated fishing lakes and ponds, wherever located in this state, with game fish and aquatic life.

ARTICLE 11B. UNDERGROUND CARBON DIOXIDE SEQUESTRATION AND STORAGE

§22-11B-3. Prohibition of underground carbon dioxide sequestration without a permit; injection of carbon dioxide for the purpose of enhancing the recovery of oil or other minerals not subject to the provisions of this article.

(a) It is unlawful for any person to commence work on, or to operate, a carbon dioxide sequestration facility or storage site without first securing a Class VI underground injection control permit from the secretary or from the US EPA.

(b) The injection of carbon dioxide for purposes of enhancing the recovery of oil or other minerals pursuant to a project approved by the secretary shall not be subject to the provisions of this article.

(c) If an oil, natural gas, or coalbed methane well operator proposes to convert its operations to carbon dioxide sequestration, then the underground carbon dioxide sequestration facility shall be regulated pursuant to this article and §22-11-1 *et seq.* of this code.

(d) All applications for permits submitted after the effective date of this article shall be governed by the provisions of this article and the provisions of §22-11-1 *et seq.* of this code. Permits issued and applications submitted prior to the effective date of this article shall be governed by the provisions of §22-11-1 *et seq.* and §22-11A-1 *et seq.* of this code. If the holder of a Class VI underground injection control permit or other carbon dioxide sequestration permit, granted prior to the effective date of this article, seeks a modification of that permit after this article

becomes effective, then the permit holder shall have the option to proceed either according to the provisions of this article or the provisions of §22-11A-1 *et seq.* of this code.

§22-11B-12. Certificate of project completion, release, transfer of title and custody, filing.

(a) After carbon dioxide injections into a reservoir end, and the storage operator has fulfilled all requirements of its Class VI underground injection control permit including requirements related to post-injection site care and site closure, and upon application by the storage operator demonstrating compliance with this article, the secretary may issue a Certificate of Underground Carbon Dioxide Storage Project Completion ("completion certificate").

(b) The completion certificate may only be issued after public notice and hearing. The secretary shall establish notice requirements for this hearing by legislative rule.

(c) The completion certificate may not be issued until at least ~~40~~ 50 years after carbon dioxide injections end or other time frame established on a site-specific basis in accordance with the legislative rules regarding the timeframe for post-injection site care and site closure.

(d) The completion certificate may only be issued if the storage operator:

(1) Is in full compliance with all laws and other requirements governing the storage facility, and has fulfilled all requirements including, without limitation, the terms of any underground injection control permit associated with the facility including permit requirements related to post-injection site care and site closure, legislative rules regarding post-injection site care and site closure, and other applicable requirements;

(2) Demonstrates that it has addressed all pending claims regarding the storage facility's operation; and

(3) Demonstrates that the storage reservoir is reasonably expected to retain the carbon dioxide stored in it.

(e) As of the effective date of a completion certificate:

(1) Ownership of the stored carbon dioxide transfers, without payment of any compensation, to the owners of the pore space as established in §22-11B-18 of this code;

(2) Ownership acquired by the pore space owners under subdivision (e)(1) of this section includes all rights and interests in the stored carbon dioxide and any associated leasing rights; *Provided*, That all liability other than contractual obligations and criminal liability ~~and regulatory requirements~~ associated with the stored carbon dioxide shall become the responsibility of the state and the state shall defend, indemnify, and hold harmless the pore space and surface owners against all claims using only funds from the Carbon Dioxide Storage Facility Trust Fund;

(3) The storage operator and all persons who transported and/or generated any stored carbon dioxide are released from all liability other than contractual obligations and criminal liability ~~and regulatory requirements~~ associated with the storage facility;

(4) Any bonds posted by the storage operator shall be released; and

(5) Notwithstanding ownership of the stored carbon dioxide in the pore space owners as provided herein, monitoring, and managing the storage facility shall become the state's responsibility to be overseen by the secretary utilizing only money from the Carbon Dioxide Storage Facility Trust Fund until such time as the federal government assumes responsibility for the long-term monitoring and management of storage facilities. The release of liability under this section shall not apply to a current or former owner or operator of a storage facility when such liability arises from that owner or operator's noncompliance with applicable underground injection control laws, regulations, or permits prior to issuance of the certificate of completion of injection operations nor shall it apply when the director determines that there is fluid migration for which the operator is responsible that causes or threatens imminent and substantial endangerment to an underground source of drinking water.

(f) The secretary shall require that a copy of the completion certificate and a survey of the storage field be filed with the county recorder in the county or counties where the carbon dioxide storage facility is located.

(g) The secretary shall implement this article in a manner consistent with and as he or she deems necessary to carry out the purposes and requirements of the federal Safe Drinking Water Act, as amended, and its implementing regulations relating to the State's primary enforcement authority for the underground injection control program established under that Act with respect to the storage and sequestration of carbon dioxide, including but not limited to the State's authority to immediately and effectively restrain any person from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment. Additionally, in no event may the release of liability under this section interfere with the US EPA's authority under Section 1431 of the federal Safe Drinking Water Act.

Following discussion,

The question being on the adoption of Senator Smith's amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 5045), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Senate Bill 351, Expanding the definition of "small arms" for purposes of taxation.

Senate Bill 378, Prohibiting smoking in vehicle when minor 16 or under is present.

Com. Sub. for Senate Bill 542, Amending procedure for filling vacancies in certain county offices having more than three commissioners.

Com. Sub. for Senate Bill 587, Enabling State Fire Commission to propose legislative rules.

Com. Sub. for Senate Bill 590, Political Subdivision Labor Regulatory Limitation Act.

Com. Sub. for Senate Bill 614, Relating to elementary behavior intervention and safety.

And,

Com. Sub. for Senate Bill 616, Modifying definition of "family or household members" as it relates to domestic violence laws.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Tarr, Chapman, Weld, and Plymale.

At the request of Senator Tarr, unanimous consent being granted, the Senate then stood in observance of a moment of silence in recognition of the passing of Koda Bryson Jarrett, a student at Winfield Middle School who was killed yesterday, Wednesday, February 7, 2024.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, unanimous consent being granted, it was ordered that the Journal show had Senator Plymale been present in the chamber on yesterday, Wednesday, February 7, 2024, he would have voted "yea" on the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill 325, Engrossed Senate Bill 507, Engrossed Senate Bill 529, Engrossed Committee Substitute for Senate Bill 540, Engrossed Senate Bill 547, Engrossed Committee Substitute for Senate Bill 557, and Engrossed Committee Substitute for House Bill 4801.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on February 7, 2024:

Senate Bill 583: Senator Martin.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on February 7, 2024:

Senate Bill 194: Senator Hunt;

Senate Bill 347: Senators Stuart, Caputo, and Rucker;

Senate Bill 355: Senator Woodrum;

Senate Bill 564: Senators Hamilton, Nelson, and Queen;

Senate Bill 568: Senator Nelson;

Senate Bill 572: Senator Woodrum;

Senate Bill 576: Senator Caputo;

Senate Bill 577: Senator Woodrum;

Senate Bill 591: Senator Woodrum;

Senate Bill 593: Senator Woodrum;

Senate Bill 601: Senator Woodrum;

Senate Bill 605: Senator Hunt;
Senate Bill 606: Senator Hunt;
Senate Bill 607: Senator Hunt;
Senate Bill 608: Senators Takubo and Hunt;
Senate Bill 609: Senators Takubo and Hunt;
Senate Bill 617: Senator Taylor;
Senate Bill 681: Senator Takubo;
Senate Bill 689: Senator Deeds;
Senate Bill 692: Senators Hamilton and Deeds;
Senate Bill 712: Senators Hamilton and Phillips;
Senate Bill 713: Senator Woodrum;
Senate Bill 714: Senator Deeds;
Senate Bill 715: Senators Chapman and Deeds;
Senate Joint Resolution 4: Senator Rucker;
Com. Sub. for Senate Joint Resolution 5: Senator Rucker;
Senate Joint Resolution 6: Senator Woodrum;
Senate Joint Resolution 7: Senators Woodrum and Rucker;
Senate Resolution 29: Senators Hamilton and Taylor;
Senate Resolution 30: Senators Hamilton and Caputo;
And,
Senate Resolution 31: Senators Hamilton and Caputo.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:46 a.m., the Senate adjourned until tomorrow, Friday, February 9, 2024, at 9 a.m.

SENATE CALENDAR

**Friday, February 09, 2024
9:00 AM**

UNFINISHED BUSINESS

S. R. 32 - Designating February 9, 2024, as Eating Disorder Advocacy Day

THIRD READING

Eng. Com. Sub. for Com. Sub. for S. B. 441 - Restricting driving in left lane of multi-lane highways in WV - (With right to amend)

Eng. Com. Sub. for S. B. 548 - Clarifying appellate jurisdiction of Intermediate Court of Appeals

Eng. Com. Sub. for S. B. 595 - Amending embalmer licensing requirements

Eng. S. B. 600 - Revising criteria for receiving reenlistment or retention bonus

Eng. Com. Sub. for H. B. 5045 - Related to the administration of the West Virginia Water Pollution Control Act, and Underground Carbon Dioxide Sequestration and Storage (original similar to SB596)

SECOND READING

S. B. 351 - Expanding the definition of "small arms" for purposes of taxation

S. B. 378 - Prohibiting smoking in vehicle when minor 16 or under is present

Com. Sub. for S. B. 542 - Amending procedure for filling vacancies in certain county offices having more than three commissioners

Com. Sub. for S. B. 587 - Enabling State Fire Commission to propose legislative rules

Com. Sub. for S. B. 590 - Political Subdivision Labor Regulatory Limitation Act

Com. Sub. for S. B. 614 - Relating to elementary behavior intervention and safety

Com. Sub. for S. B. 616 - Modifying definition of "family or household members" as it relates to domestic violence laws

FIRST READING

Com. Sub. for S. B. 544 - Raising threshold for bid requirement of municipal public works projects (original similar to HB5441)

Com. Sub. for S. B. 577 - Limiting landowner liability when land is used for certain purposes

Com. Sub. for S. B. 578 - Clarifying offense of burglary

S. B. 605 - Requiring electronic funds transfer of retirement contributions by participating employers

S. B. 606 - Relating to Natural Resources Police Officers Retirement System

S. B. 607 - Clarifying Municipal Police Officers and Firefighters Retirement System surviving spouse benefits

Com. Sub. for S. B. 608 - Relating to Emergency Medical Services Retirement System

S. B. 609 - Deputy Sheriff Retirement System Act

S. B. 658 - Supplementing and amending appropriations to Department of Administration, Public Defender Services (original similar to HB5452)

Eng. H. B. 5153 - Relating to revising, updating and streamlining the requirements governing the West Virginia Science, Technology, Engineering, and Mathematics Scholarship.

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2024

Friday, February 9, 2024

15 Minutes After
Floor Session

Workforce

(Room 208W)