

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE  
REGULAR SESSION, 2016  
TWENTIETH DAY

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Charleston, W. Va., Monday, February 1, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Rabbi Victor Urecki, B'Nai Jacob Synagogue, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Bob Ashley, a senator from the third district.

Pending the reading of the Journal of Friday, January 29, 2016,

At the request of Senator Prezioso, 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. Com. Sub. for House Bill 4227**—A Bill to amend and reenact §30-38-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board; changing the requirements for membership on the board; providing for continued service of qualifying board members; and providing for the disqualification of certain members who become licensees.

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. Com. Sub. for House Bill 4230**—A Bill to amend and reenact §30-13-4 and §30-13-5 of the Code of West Virginia, 1931, as amended, all relating to the Board of Registration for Professional Engineers; changing the qualifications for membership on the board; providing for continued service of qualifying board members; creating an emeritus status; and providing for the disqualification of certain members who become licensees.

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. Com. Sub. for House Bill 4238**—A Bill to amend and reenact §30-13A-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Board of Professional Surveyors; changing qualifications for membership on the board; providing for continued service of qualifying board members; providing for the disqualification of certain members who become licensees; and providing that citizen member appointments represent different congressional districts.

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. Com. Sub. for House Bill 4241**—A Bill to amend and reenact §30-40-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Commission; changing the qualifications for membership on the commission; providing for continued service of qualifying board members; adding party affiliation limitation; and providing for the disqualification of certain members who become licensees.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill 16**, Providing tax credit for providing broadband to certain census blocks.

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

**Com. Sub. for Senate Bill 16** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13BB-1, §11-13BB-2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6 and §11-13BB-7, all relating generally to providing tax credit for providing broadband service and wireless broadband service to unserved areas; requiring Tax Commissioner to propose rules for legislative approval to administer this article; providing definitions; specifying amount, application, restrictions, timing and cap on tax credit; and permitting a carryover of credit to subsequent tax year.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. 16), 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

**Senate Bill 40**, Changing definition of facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.

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

**Com. Sub. for Senate Bill 40** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-26-2 of the Code of West Virginia, 1931, as amended, relating to modifying funding assistance from Courthouse Facilities Improvement Authority; and changing definition of facilities that are eligible for funding assistance from courthouse facilities that are occupied by county or judicial officials to ones that are currently occupied by those officials or upon renovation will be county owned and occupied by county or judicial officials or programs.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. House Bill 4005**, Repealing prevailing hourly rate of wages requirements.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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 Senators Kirkendoll, Boley, Mullins and Walters:**

**Senate Bill 436**—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to animal cruelty; and defining adequate shelter for dogs and cats.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 437**—A Bill to amend and reenact §29-5A-1, §29-5A-15 and §29-5A-24 of the Code of West Virginia, 1931, as amended, all relating to regulation of events by State Athletic Commission;

authorizing delegation of commission authority to approve certain event changes; eliminating requirements for certain bonds; and providing for rules to govern amateur mixed martial arts.

Referred to the Committee on Government Organization.

**By Senator Ferns:**

**Senate Bill 438**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-6A-2a, relating to notification and recommendation of Department of Health and Human Resources with regard to placement of criminal defendants committed to the department's care and custody.

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

**By Senators Hall and Plymale:**

**Senate Bill 439**—A Bill to amend and reenact §11B-2-27 of the Code of West Virginia, 1931, as amended, relating to approval of requisitions for payment of personal services by budget director; and exceptions.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 440**—A Bill to amend and reenact §18B-3D-1 and §18B-3D-4 of the Code of West Virginia, 1931, as amended, all relating to Workforce Development Initiative Program and expanding the Learn and Earn Program; eliminating authority for Workforce Development Initiative Program grant funding for equipment; and eliminating exception to dollar-for-dollar grant funding match from private sector partners.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 441**—A Bill supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2016, organization 0803, for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 442**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Public Services Commission – Motor Carrier Division, fund 8743, fiscal year 2016, organization 0926, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 443**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Health and Human Resources, Consolidated Medical Service Fund, fund 8723, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Human Rights Commission, fund 8725, fiscal year 2016, organization 0510, and the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 444**—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, 2016, to the Department of Health and Human Resources, Division of Health — West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services — Medical Services Trust Fund, fund 5185, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 445**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents by well operators and pipeline operators; defining terms; establishing reporting requirements; establishing obligations of local emergency telephone operators; providing for recording and handling of calls; setting forth administrative civil penalty; and providing appeal process.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 446**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Education, State Board of Education – School Lunch Program, fund 8713, fiscal year 2016, organization 0402, and the Department of Education, State Board of Education – Vocational Division, fund 8714, fiscal year 2016, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 447**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act, fund 8749, fiscal year 2016, organization 0323, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 448**—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, 2016, to the Department of Revenue, Tax Division – Wine Tax Administration Fund, fund 7087, fiscal year 2016, organization 0702, and the Department of Revenue, Tax Division – Local Sales Tax and Excise Tax Administration Fund, fund 7099, fiscal year 2016, organization 0702, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 449**—A Bill 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 Administration, Public Defender Services, fund 0226, fiscal year 2016, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 450**—A Bill 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 Health and Human Resources, Division of Health, fund 0407, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 451**—A Bill 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 Military Affairs and Public Safety, West Virginia Parole Board, fund 0440, fiscal year 2016, organization 0605, and to the Department of Military Affairs and Public Safety, Division of Juvenile Services, fund 0570, fiscal year 2016, organization 0621, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 452**—A Bill to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-4, §18-9A-5, §18-9A-7, §18-9A-10 and §18-9A-11 of said code, all relating to public school finance; eliminating authority of growth county boards of education to designate regular school board levy revenues due to new construction or improvements to a growth county school facilities act fund; adjusting the formula for foundation allowance for professional educators; adjusting the formula for foundation allowance for service personnel; adjusting and eliminating certain adjustments of the foundation allowance for transportation costs; adjusting the calculation for the foundation allowance to improve instructional programs; and eliminating certain restrictions in the computation of local share.

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

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 453**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21A-1-9, relating to creating the Self-Employment Assistance Act; providing assistance to eligible participants engaged full-time in starting a business and becoming self-employed; and granting rule-making authority.

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

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 454**—A Bill to amend and reenact §60A-9-4, §60A-9-5, §60A-9-5a, §60A-9-7 and §60A-9-8 of the Code of West Virginia, 1931, as amended, all relating to West Virginia Controlled Substances Monitoring Program database; requiring reporting when an opioid antagonist is

dispensed by certain persons; clarifying code language related to seventy-two hour prescriptions; prohibiting licensing boards from issuing or reissuing licenses to practitioners who have not registered for West Virginia Controlled Substances Monitoring Programs database; establishing fine for failure to register for West Virginia Controlled Substances Monitoring Program database; establishing fine for failure to access West Virginia Controlled Substances Monitoring Program as mandated by the code; clarifying language related to Fight Substance Abuse Fund; placing administrative authority over Fight Substance Abuse Fund with the Bureau for Public Health; revising code language to use defined terms; and reorganizing existing code language.

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

**By Senators Sypolt, Blair, Karnes, Mullins, Takubo, Trump and Leonhardt:**

**Senate Joint Resolution 9**—Proposing an amendment to the Constitution of the State of West Virginia, amending section six, article three thereof, relating to protecting the electronic communication and data of citizens from unreasonable searches and seizures; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary.

Senators Romano, Facemire, Williams and Stollings offered the following resolution:

**Senate Concurrent Resolution 16**—Requesting Division of Highways name bridge number 17-20-25.38 (17A106), locally known as Haywood Bridge, carrying West Virginia Route 20 over West Fork River and CSX railroad in Harrison County, the “U. S. Army CPL John Belcastro Bridge”.

Whereas, John Belcastro, was born on June 12, 1922, in Shinnston, West Virginia. He was the first born of one of the first set of twins born in Shinnston and one of six sons born to Frank and Anita Bartolo Belcastro. After graduation from Shinnston High School in 1942, John Belcastro spent four years in the U. S. Army during World War II. He entered the U. S. Army in October of 1942, attained the rank of Corporal T/5 and was honorably discharged on January 18, 1946. Mr. Belcastro was a member of the 10th Armored Division, 90th Reconnaissance Cavalry, 3rd Army under General George Patton. He spent Christmas of 1944 fighting in the Battle of the Bulge in which the 10th Armored Division led the 3rd Army all the way to Austria. He also fought in the Ardennes Forest, the Rhineland and Central Europe. In May of 1945, Mr. Belcastro was chosen to be a part of a secret mission. As soon as the war ended, he was part of the team hand-picked to rescue 118 German scientists who were defecting to America. Those German scientists included Wernher Von Braun who was instrumental in starting the American space program in Huntsville, Alabama; and

Whereas, CPL Belcastro received a Purple Heart, a Bronze Star for bravery, the Croix De Guerre Presidential Citation and Good Conduct Medal. He also was awarded the American Theater Ribbon, the Middle Eastern Theater Ribbon, the World War II Victory Ribbon, the Diplome from the Republique Francais' Ministere De La Defense Liberation of France and the Knight of the French Legion of Honor; and

Whereas, When the war ended, CPL Belcastro returned to Shinnston where he worked in the coal industry for forty-three years. While working in the mines, he volunteered to be a member of the mine rescue squad, serving in that capacity from 1950 to 1964 during which time he helped in rescue efforts in twelve explosions and fires. Mr. Belcastro received Consol Safety Award for twenty-five years with no lost time accidents. He was a member of United Mine Workers Local #1501 where he held many offices including serving on the COMPAC committee for twelve years, holding the office of treasurer for eight years and social chairman for eighteen years; and

Whereas, John Belcastro displayed his talent as an imitator and impersonator by being named the winner of the Wilken's Amateur Hour held in Pittsburgh; the winner of the All Stars Amateur Hour held at the Ritz Theater in Clarksburg; performed with the Paul Whitman Orchestra at the Warner Theater in Morgantown; with Vaughn Monroe at the Ritz in Clarksburg; and Frank Yankovic's Polish Band at the Clarksburg Armory; and

Whereas, John Belcastro and Sylvia, his wife of sixty-eight years, are members of St. Ann's Catholic Church where he has served as an usher, lector and president of the men's Holy Name Society for three terms. He served as both Vice President and Treasurer of the Clarksburg Deanery of the Holy Name Society and on the Board of Directors for the Wheeling-Charleston Diocese. He is also a member of the Knights of Columbus #942 and a weekly adorer in the Perpetual Adoration Chapel. For years he was the "Voice of the Spartans" as he served as the announcer for the Shinnston High football games and also for the Shinnston Little League baseball games. Mr. Belcastro held the position of Cub Master for Pack 59 for the Shinnston Area Boy Scouts. He belongs to the Clarksburg Senior Citizens and delivered Meals on Wheels. He is a Life Member of the Veterans of Foreign Wars #573 in Clarksburg, AARP, and a Life Member of the Shinnston American Legion Post 31 where he served on the Color Guard and as chairman of various committees as well as serving as Service Officer for the VA Hospital and the Old Soldier's Home in Weston. John Belcastro was captain of the seven-time winning Italian Trivia Team in conjunction with the Italian Heritage Festival and received a diploma from the University of Hard Knocks at Alderson-Broadbush College in 1999. He is one of the longest serving members of the Board of Directors of the Monongahela Valley Association of Health Centers Fairmont Clinic, having served for over forty years; and

Whereas, On June 12, 2016, Mr. Belcastro will celebrate his 94th birthday. He has lived all his life in Shinnston. He is a long-time pillar of his community and it is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17-20-25.38 (17A106), locally known as Haywood Bridge, carrying West Virginia Route 20 over West Fork River and CSX railroad in Harrison County, the "U. S. Army CPL John Belcastro Bridge"; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "U. S. Army CPL John Belcastro Bridge"; and, be it

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

Which, under the rules, lies over one day.

Senators Maynard, Plymale and Stollings offered the following resolution:

**Senate Concurrent Resolution 17**—Requesting Division of Highways name bridge that traverses the left fork of Wilson Creek on County Route 17 located 0.01 mile south of County Route 22 in Wayne County, bridge number 50A026, latitude +39.33852, longitude -82.38409, as the "Charles Edward Smith Memorial Bridge".

Whereas, Charles Edward Smith was born on October 24, 1921; and

Whereas, Charles Edward Smith, who served in the United States Army during World War II, received the Purple Heart, Good Conduct Medal and Eastern Service Ribbon as the result of the courage he displayed in battle, serving in the Ardennes in Northern France and being wounded in combat on December 30, 1944, in Belgium; and

Whereas, Charles Edward Smith passed away on April 6, 2013; and

Whereas, It is fitting and proper to memorialize the courageous and honorable actions committed on behalf of this country by Charles Edward Smith; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name the bridge that traverses the left fork of Wilson Creek on County Route 17 located 0.01 mile south of County Route 22 in Wayne County, designated as bridge number 50A026, latitude +39.33852, longitude -82.38409, as the "Charles Edward Smith Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Charles Edward Smith Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the Wayne County Veterans' Association.

Which, under the rules, lies over one day.

Senators Unger, Snyder, Plymale, Trump, Blair, Williams and Stollings offered the following resolution:

**Senate Resolution 16**—Recognizing Leadership Berkeley for its service, dedication and commitment to Berkeley County.

Whereas, The objective of Leadership Berkeley is to promote knowledge and awareness of the problems, opportunities and issues facing Berkeley County; and

Whereas, Leadership Berkeley is designed to provide a series of educational and participatory experiences, as well as an opportunity for dialogue and the development of a correlation among participants in order to encourage local participation in the growth of Berkeley County; and

Whereas, The membership of Leadership Berkeley includes individuals from nearly every facet of Berkeley County's business, professional, religious, governmental, educational, civic, the arts, organized labor and minority organizations who demonstrate a commitment to the community; and

Whereas, The 2016 membership of Leadership Berkeley consists of Amy D. Bender, CNB Bank Inc.; Ryan A. Byrd, Berkeley Senior Services; Michael A. Bush, Bowles Rice LLP; Angi Cornwell, Hornby Publishing; David Ekmark, Department of Veterans Affairs; Kristie R. Hadley, Bank of Charles Town; Stephanie N. Harrison, Allstate Insurance-The Kelley Agency; James G. Hersick, Jr., Native Design and Brand Communications; Amanda J. Malcolm, Eastern Panhandle Transit Authority; Tanya A. Mock, Arndt-McBee Insurance; Jennifer L. O'Brien, Eastern Panhandle Regional Planning and Development Council; Joseph P. Reasbeck, Frontier; Teresa Scott, RMS Shredding; Megan E. Shaffer, United Bank; Karen A. Spence, Johnnies Express; Taylor N. Tibyash, Blue Ridge Community and Technical College; Roxie Vannoy, FASTSIGNS; Anissa P. Wade, CNB Bank; Kewnneth W. Walker, Trinity United Methodist Church; Jeffrey S. Wilkerson, City of Martinsburg, WV; Laura N. Wilson, Shenandoah Community Health; Brittany R. Young, Catholic Charities West Virginia; Clyde R. Young, Cox Hollida & Professionals; and Tina H. Combs, Martinsburg-Berkeley County Chamber of Commerce; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Leadership Berkeley for its service, dedication and commitment to Berkeley County; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials of Leadership Berkeley.

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.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Miller, Plymale, Yost, Williams, Stollings and Unger offered the following resolution:

**Senate Resolution 17**—Recognizing the West Virginia School of Osteopathic Medicine for excellence in medical education and its many contributions to the State of West Virginia.

Whereas, The West Virginia School of Osteopathic Medicine's main campus is located in Lewisburg, West Virginia, and its statewide campus offices are located throughout the Mountain State; and

Whereas, The mission of the West Virginia School of Osteopathic Medicine is to educate students from diverse backgrounds as lifelong learners in osteopathic medicine and complementary health-related programs; to support and develop graduate medical education training; to advance scientific knowledge through academic, clinical and basic science research; and to promote patient-centered, evidence-based medicine; and

Whereas, The West Virginia School of Osteopathic Medicine is dedicated to serving, first and foremost, the State of West Virginia and the health care needs of its residents, emphasizing primary care in rural areas; and

Whereas, The West Virginia School of Osteopathic Medicine is a leader in producing graduates who practice in rural settings and has a nationally recognized faculty and innovative programs, such as the Rural Health Initiative Program; and

Whereas, *U. S. News & World Report* has ranked the West Virginia School of Osteopathic Medicine among the top medical schools in the nation in primary care, rural and family medicine for the past seventeen years, solidifying the school's reputation as a place where scientific study and compassion are joined in one curriculum; and

Whereas, The West Virginia School of Osteopathic Medicine is known nationwide for its efforts in rural, family and primary care medicine and has earned many accolades to support its efforts, including: First among all medical schools in the United States graduating physicians who practice in rural areas (*Academic Medicine*, 2010 Study); third in the nation for percentage of medical school graduates entering primary care residency specialties (*U. S. News & World Report* 2015); thirteenth in the nation for family medicine (*U. S. News & World Report* 2015); and fourteenth in the nation for rural medicine (*U. S. News & World Report* 2015); and

Whereas, Third and fourth year students from the West Virginia School of Osteopathic Medicine completed 1,436 rural clinical rotations in West Virginia this past academic year; and

Whereas, WVSOM has been recognized by *The Chronicle of Higher Education* for five consecutive years as a "Great College to Work For", the first institution in West Virginia to receive this honor; and

Whereas, Graduates of the West Virginia School of Osteopathic Medicine practice medicine in forty-seven of West Virginia's fifty-five counties and in forty-eight states and the District of Columbia, and making a significant contribution to the health care needs of the citizens of West Virginia and the nation; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia School of Osteopathic Medicine as a national leader in rural primary care medicine, for excellence in medical education, and for its many contributions to the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia School of Osteopathic Medicine.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order, which agenda includes the making of main motions.

Senator Miller moved that a fiscal note be prepared for Engrossed House Bill 4005 (*Repealing prevailing hourly rate of wages requirements*).

Following discussion,

The question being on the adoption of Senator Miller's aforestated motion, and on this question, Senator Miller demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Miller's aforestated motion had not prevailed.

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Unger regarding the adoption of Senator Miller's aforestated motion were ordered printed in the Appendix to the Journal.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 15**, U. S. Army SFC Jesse Muncy Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 15**, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 15) 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 Com. Sub. for Senate Bill 27**, Permitting county commissions hire outside attorneys for collection of taxes through courts.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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 Com. Sub. for S. B. 27) 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 150**, Authorizing Department of Transportation promulgate legislative rules.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 150 pass?"

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Kessler—1.

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. 150) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Kessler—1.

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. 150) 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 288**, Creating one-day special license for charitable events to sell nonintoxicating beer.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 288) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

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. 288) takes effect from passage.

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

**Eng. Senate Bill 329**, Eliminating sunset provision for commission to study residential placement of children.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 329) 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 338**, Compiling and maintaining Central State Mental Health Registry.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 338) passed with its title.

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

**Eng. Senate Bill 379**, Relating to candidate filing fees.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 379) passed.

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

**Eng. Senate Bill 379**—A Bill to amend and reenact §3-5-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-8-5b of said code, all relating to candidate filings; directing candidates for circuit and family court judge to pay their filing fees to the election official with whom certificate of announcement is to be filed; providing for apportionment of certain candidate filing fees to counties; and requiring campaign finance statements for circuit and family court judges to be filed with Secretary of State.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 379) takes effect from passage.

*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.

**Senate Bill 271**, Conforming definition of attest services to Uniform Accountancy Act.

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

**Senate Bill 333**, Taking and registering of wildlife.

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

**Senate Bill 334**, Identifying coyote as fur-bearing animal and woodchuck as game animal.

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

**Senate Bill 336**, Relating to crossbow hunting.

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 343**, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records.

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

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

On page two, section eleven, line eighteen, after the word “officer” by inserting the words “or investigator for legitimate investigative purposes”.

The bill (Com. Sub. for S. B. 343), as amended, was then ordered to engrossment and 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:

**Com. Sub. for Senate Bill 109**, Repealing code provisions related to certain reports by trustees for property.

**Senate Bill 123**, Treatment for sexually transmitted diseases.

**Com. Sub. for Senate Bill 254**, Not allowing county park commissions to prohibit firearms in facilities.

**Senate Bill 261**, Bringing state code relating to daylight saving time in conformity with federal code.

**Com. Sub. for Senate Bill 268**, Abolishing Council of Finance and Administration.

**Senate Bill 306**, Permitting sale of county or district property online.

**Com. Sub. for Senate Bill 369**, Reducing legislative education reporting requirements.

And,

**Eng. Com. Sub. for House Bill 2101**, Eliminating obsolete government entities.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Woelfel, Carmichael and Blair.

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

At the request of Senator Walters, unanimous consent being granted, the remarks by Senators Carmichael and Blair were ordered printed in the Appendix to the Journal.

The Senate then proceeded to the thirteenth order of business.

Senator Kessler called attention to today being the birthday of Kevin Baker, Counsel to the Senate Minority Leader, and on behalf of the Senate extended felicitations and good wishes to Kevin Baker.

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 2, 2016, at 11 a.m.

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## **SENATE CALENDAR**

**Tuesday, February 02, 2016  
11:00 AM**

### **UNFINISHED BUSINESS**

- S. C. R. 16 - U.S. Army CPL John Belcastro Bridge.  
S. C. R. 17 - Charles Edward Smith Memorial Bridge.

### **THIRD READING**

- Eng. S. B. 271 - Conforming definition of attest services to Uniform Accountancy Act.  
Eng. S. B. 333 - Taking and registering of wildlife - (Com. title amend. pending).  
Eng. S. B. 334 - Identifying coyote as fur-bearing animal and woodchuck as game animal.  
Eng. S. B. 336 - Relating to crossbow hunting.  
Eng. Com. Sub. for S. B. 343 - Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records.

### **SECOND READING**

- Com. Sub. for S. B. 109 - Repealing code provisions related to certain reports by trustees for property.  
S. B. 123 - Treatment for sexually transmitted diseases.  
Com. Sub. for S. B. 254 - Not allowing county park commissions to prohibit firearms in facilities.  
S. B. 261 - Bringing state code relating to daylight saving time in conformity with federal code.  
Com. Sub. for S. B. 268 - Abolishing Council of Finance and Administration.  
S. B. 306 - Permitting sale of county or district property online.  
Com. Sub. for S. B. 369 - Reducing legislative education reporting requirements.  
Eng. Com. Sub. for H. B. 2101 - Eliminating obsolete government entities - (Com. amend. pending).

### **FIRST READING**

- Com. Sub. for S. B. 40 - Changing definition of facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.  
Eng. H. B. 4005 - Repealing prevailing hourly rate of wages requirements.

## **ANNOUNCED SENATE COMMITTEE MEETINGS**

### **Regular Session 2016**

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#### **Tuesday, February 2, 2016**

10 a.m.	Transportation & Infrastructure	(Room 451M)
1 p.m.	Health & Human Resources	(Room 451M)
1 p.m.	Energy, Industry & Mining	(Room 208W)
2 p.m.	Education	(Room 451M)
2 p.m.	Government Organization	(Room 208W)
3 p.m.	Finance	(Room 451M)