

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE  
REGULAR SESSION, 2016  
THIRTY-SIXTH DAY

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Charleston, W. Va., Wednesday, February 17, 2016

The Senate met at 11 a.m.

(Senator Cole, 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 Roman W. Prezioso, Jr., a senator from the thirteenth district.

Pending the reading of the Journal of Tuesday, February 16, 2016,

At the request of Senator Boley, 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 amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

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

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section thirty, line one, after the words "drug or" by inserting the word "medical";

And,

On page one, section thirty, line eleven, after the words “drugs or” by inserting the word “medical”.

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

Engrossed Senate Bill 15, as amended by the House of Delegates, was then 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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate 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.

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 2122**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-12-16, relating to making it illegal for first responders to photograph, film, videotape, record, or otherwise reproduce in any manner the image of a human corpse or person being provided medical care or assistance; defining terms; creating a criminal offense for first responders to photograph, film, videotape, record, or otherwise reproduce in any manner the image of a human corpse or person being provided medical care or assistance; creating a criminal offense for first responders to knowingly disclose any photograph, film, videotape, record, or other reproduction of the image of a human corpse or person being provided medical care or assistance; providing for exceptions to the criminal offenses; providing for criminal penalties; providing for enhanced penalties for subsequent offenses; and designating as “Jonathon’s Law”.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for House Bill 2800**, Adding law-enforcement officers’ contact information and names of family members to the list of exemptions from public records requests.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Lane, Hanshaw and Shaffer.

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 88**, WV Water Sustainability Institute.

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,

Chris Walters,  
*Chair.*

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

Senator Boso, from the Committee on Energy, Industry and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry and Mining has had under consideration

**Senate Bill 179**, DEP, Oil and Gas rule relating to horizontal well development.

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 the Judiciary.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 259** (originating in the Committee on Government Organization), Amending Unfair Trade Practices Act.

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

**Com. Sub. for Com. Sub. for Senate Bill 259** (originating in the Committee on the Judiciary)—  
A Bill to repeal §47-11A-10, §47-11A-12 and §47-11A-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-11A-1, §47-11A-2, §47-11A-5, §47-11A-6, §47-11A-8, §47-11A-9 and §47-11A-14 of said code, all relating to unfair trade practices; providing legislative findings; designating article the “Unfair Trade Practices Act”; making it unlawful for a retailer or wholesaler to sell, offer for sale or advertise for sale any product or item of merchandise at a price less than cost with the intent to destroy or the effect of destroying competition; providing that a violation of the article constitutes a misdemeanor; defining “retailer” and “wholesaler”; providing for how “cost” is to be determined; exempting certain sales, offers to sell or advertisements to sell from the provisions of the article; providing that an injured person or entity may maintain an action to enjoin continuance of any violation of the article; providing that an injured person or entity may maintain an action for damages; providing that actual damages, if alleged and proven, be assessed; providing for an absolute defense

to an action to enjoin or for damages filed under the article; providing jurisdiction to the circuit courts; and providing purposes of the article.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 320**, Permitting practice of telemedicine.

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

**Com. Sub. for Senate Bill 320** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-13a; and to amend said code by adding thereto a new section, designated §30-14-12d, all relating to the practice of medicine, permitting the practice of telemedicine; establishing requirements; making exceptions; defining terms; and authorizing rulemaking.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. 320), under the original double committee reference, was then referred to the Committee on Finance.

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 327**, Proposing construction of modern highway from Pikeville, KY, to Beckley, WV.

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

**Com. Sub. for Senate Bill 327** (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 section, designated §17-2A-8d, relating to construction of a modern highway from Pikeville, Kentucky, to Beckley, West Virginia; requiring Commissioner of Highways to determine how the highway can be best funded and constructed; stating legislative findings; and requiring reports and hearings and public meetings.

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

Respectfully submitted,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. 327), under the original double committee reference, was then referred to the Committee on Government Organization.

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 332**, Entering into Interstate 73 Compact.

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

**Com. Sub. for Senate Bill 332** (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 §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6 and §17-29-7, all relating to entering into Interstate 73 Compact; entering into an agreement with five other states to develop and promote a plan for the design, construction, financing and operation of Interstate 73 corridor; designating certain officials to participate in an interstate commission to carry out the purposes of the compact; establishing composition, powers and duties of the commission; authorizing funding for commission operations; authorizing legislators to receive compensation and expense reimbursement for activities related to membership on the commission; designating agency staff to support commission activities; and establishing terms of withdrawal from the compact.

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. 332), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

**Senate Bill 352**, Dedicating corporation net income tax proceeds to railways.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 431**, Authorizing pharmacists and pharmacy interns dispense opioid antagonists.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

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 476**, Relating to driving restrictions in school zones.

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 the Judiciary.

Respectfully submitted,

Chris Walters,  
*Chair.*

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

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 488**, Requiring WV Secondary School Activities Commission manage hypertrophic cardiomyopathy.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4175**, Relating generally to home schooling.

And has amended same.

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

Respectfully submitted,

Dave Sypolt,  
*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

**Senate Bill 538**, Relating to salaries of appointed officers fixed by Governor.

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,

Craig Blair,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 552**, Eliminating requirement sheriff pay jury costs to State Treasury.

And,

**Senate Bill 573**, Prohibiting municipal annexation which would result in unincorporated territory within municipality.

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

Respectfully submitted,

Craig Blair,  
*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

**Senate Bill 553**, Merging purposes and provisions of Volunteer Fire Department Workers' Compensation Subsidy Program and Fund.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 579**, Eliminating WV Port Authority.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 582**, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.

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

**Com. Sub. for Senate Bill 582** (originating in the Committee on Finance)—A Bill to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to providing a refundable exemption from the flat rate component of the state motor fuel excise tax on all gallons of motor fuel sold for use or consumed in railroad diesel locomotives; setting a cap on the exemption per year; and requiring a proportionate disbursement if claims exceed the cap.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 597**, Relating to Health Care Authority.

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

**Com. Sub. for Senate Bill 597** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §5F-1-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §9-4C-7 of said code; to amend and reenact §11-27-9 and §11-27-11 of said code; to amend and reenact §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5 and §16-5F-6 of said code; to amend and reenact §16-29B-3, §16-29B-5, §16-29B-6, §16-29B-7, §16-29B-8, §16-29B-9, §16-29B-11, §16-29B-12, §16-29B-13, §16-29B-14, §16-29B-15, §16-29B-17, §16-29B-18, §16-29B-19a, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25 and §16-29B-26 of said code; to amend said code by adding thereto two new sections, designated §16-29B-5a and §16-29B-28; to amend and reenact §16-29G-2, §16-29G-5 and §16-29G-6 of said code; and to amend and reenact §16-29I-4 of said code, all relating generally to the Health Care Authority; employment of the members of the Board of the West Virginia Health Care Authority; providing authority to set salaries for board members; creating the position of Executive Director of the Health Care Authority; making the executive director the administrative head of the Health Care Authority; setting forth the qualifications of the executive director; providing the executive director is appointed by the Governor with advice and consent of the Senate; providing the executive director reports to the Secretary of the Department of Health and Human Resources; placing the Health Care Authority under the Department of Health and Human Resources; adding the executive director to the Public Employees Insurance Agency Advisory Board; clarifying where the administrative duties of the Health Care Authority are to be carried out; clarifying that the Board of Directors of the Health Care Authority is the adjudicatory arm of the Health Care Authority; requiring that the members of the board of directors be employed on a part-time basis; setting forth other employment requirements for the board of directors; expanding the board of directors from three to five members; setting forth qualifications for appointment to the board of directors; providing that the board of directors shall report to the executive director; establishing compensation for the board of directors; setting forth minimum



hearing requirements before the board of directors; providing for recommended decisions by the board of directors to the executive director; setting forth executive director procedure for review and approval of recommended decisions of the board of directors; providing for remand of a decision; clarifying that the executive director has all rule-setting powers; providing for a study by the Health Care Authority of concerns of hospitals in border counties; requiring a comprehensive study of the certificate of need program, including possible elimination of certificate of need; making technical corrections; granting authority to the Health Care Authority to review proposed cooperative agreements; defining terms; setting out legislative findings and purpose; allowing cooperative agreements between hospitals and health care providers; setting forth goals of a cooperative agreement; establishing a review process for cooperative agreements; setting forth standards for review of cooperative agreements; granting enforcement powers over cooperative agreements to the Health Care Authority; providing for rulemaking; requiring reporting to the Health Care Authority; setting out what must be included in a report; allowing the Health Care Authority to render a decision regarding reduced competition when a cooperative agreement pertains to an acquisition, merger or combination of hospitals or health care providers; and updating code references.

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,

Ryan J. Ferns,  
*Chair.*

At the request of Senator Hall, 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 Health and Human Resources.

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 Concurrent Resolution 18**, Wilbur Lee Clayton Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 18** (originating in the Committee on Transportation and Infrastructure)—Requesting Division of Highways name bridge number 16-48-13.65 (16A124), locally known as Clifford Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the “USAF Airman First Class Wilbur Lee Clayton Memorial Bridge”.

Whereas, Wilbur Lee Clayton was born in the small town of Moorefield, West Virginia, and attended elementary and high school there before heading off to Potomac State College, followed by West Virginia University; and

Whereas, Wilbur Lee Clayton’s college education was interrupted when he joined the United States Air Force in July, 1963, attended basic training at Lackland Air Force Base in San Antonio, Texas, and spent eleven months at Chanute Air Force Base in Rantoul, Illinois, being trained in Minuteman Missile maintenance; and

Whereas, In July, 1964, he was assigned to the 341st Missile Maintenance Squadron at Malmstrom Air Force Base in Great Falls, Montana, where his work involved primarily the alignment and targeting of Minuteman Missiles; and

Whereas, After being honorably discharged in July, 1967, Wilbur Lee Clayton resumed his education at Eastern Montana College in Billings, Montana, and following tradition established by his grandfather and grandmother, earned a Bachelor's Degree in Education; and

Whereas, In 1970 he returned east to Franklin County, Virginia, to be closer to his parents. He remained there until 1978, at which time he was hired to teach social studies at Moorefield High School, fulfilling a desire to return home to Hardy County and the family farm where he grew up. There, he then built his home, raised his three children and happily remained until his untimely death in 1992; and

Whereas, Being a positive influence in the lives of hundreds of his junior high and high school students during his twenty-four years of teaching was without question Wilbur Lee Clayton's greatest contribution to the State of West Virginia; and

Whereas, Being highly respected and genuinely loved by students and colleagues, he was a man of quiet mannerisms and a subtle sense of humor that was reflected in his teaching style; and

Whereas, Wilbur Lee Clayton's classroom became a place where students felt comfortable and confident knowing that there was an even playing field. All were treated the same; consequences were dealt out fairly; rewards were given equally; and

Whereas, There was a two-way exchange of respect between teacher and student; and

Whereas, After all these years after his unexpected death at age fifty-two, his former students praise him for the competent, compassionate, humorous teacher that he was and still acclaim him as their favorite teacher ever; and

Whereas, There can be no greater contribution than to have been this quiet, unassuming man who served his country proudly and set for himself the task of being a wonderful, competent and compassionate teacher and positive role model. Wilbur Lee Clayton lived a simple life devoted to helping students succeed not only in school, but more importantly, in life; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 16-48-13.65 (16A124), locally known as Clifford Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the "USAF Airman First Class Wilbur Lee Clayton Memorial 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 "USAF Airman First Class Wilbur Lee Clayton 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.

**Senate Concurrent Resolution 20, US Army CPL Troy Matthews Memorial Bridge.**

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 20** (originating in the Committee on Transportation and Infrastructure)—Requesting Division of Highways name bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the "U. S. Army CPL Troy Matthews Memorial Bridge".

Whereas, Troy Matthews was born July 8, 1914, in Putnam County, West Virginia, the son of Ed and Hulda Matthews. As a young man, the family lived on Cabin Creek in Kanawha County where his father worked in the coal mines. After the coal mine wars in the late 20s, his parents bought a small farm in Sissonville and moved the family there.

Whereas, Troy enlisted in the United States Army on June 8, 1941, and was sent to Fort Knox, Kentucky, where he was trained as a tank mechanic and served in Headquarters Company, 2nd Battalion, 3rd Armored Division. He served in Northern France, the Ardennes (Belgium) and Rhineland (Germany — European Theater of Operations) where he was wounded as a result of enemy action on September 15, 1944.

Whereas, His wounds resulted in paralysis to his right arm and hand and serious wounds to his back and leg. He spent over a year in several military hospitals and was discharged from the Army as a Tec 5 (Corporal) from Northington General Hospital in Tuscaloosa, Alabama, on October 11, 1945. His decorations include the European Theater Ribbon, Good Conduct Medal, three Bronze Battle Stars and a Purple Heart.

Whereas, Although his injuries were severe, and his right hand and arm paralyzed, he learned to write again with his left hand and to do most anything he could do before his injuries. He farmed, worked on equipment and in March, 1950, he went to work for the Department of the Navy at the Naval Ordnance Plant in South Charleston, West Virginia, where he helped to make tracked military vehicles. He worked there until the plant was decommissioned and closed in 1961 after being sold to FMC. At that time, he applied for and received his disability retirement based on his service record and related disability. Although retired, he continued to work for many years as a dispatcher for Point Express, a trucking company in Charleston.

Whereas, Troy was married to the late Glyda Boggess Matthews. They had three children: Linda, Dennis and Jay. Troy passed away on May 20, 1984, at the age of 69; and

Whereas, Naming the bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the "U. S. Army CPL Troy Matthews Memorial Bridge" is an appropriate recognition of his contributions to his country, state, community and Kanawha County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the "U. S. Army CPL Troy Matthews Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is requested to have made and be placed signs identifying the bridge as the "U. S. Army CPL Troy Matthews 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 any surviving members of the family of CPL Troy Matthews.

And,

**Senate Concurrent Resolution 27, Herman Daner Rogers Memorial Bridge.**

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 27** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways to name the bridge located on Interstate 64, 0.43 miles north of County Route 34, bridge number 40-34-15.00 (40A090), latitude 38.45599, longitude -81.93554, originally called the I-64 Winfield Interchange Bridge, in Putnam County, the “U. S. Army PFC Herman Daner Rogers Memorial Bridge”.

Whereas, Herman Daner Rogers was born in Kanawha County on February 8, 1924; and

Whereas, Herman Daner Rogers served this country during WWII as a PFC in the U. S. Army, being engaged in fierce combat in Normandy, Northern France, and the Rhineland in Central Europe; and

Whereas, PFC Herman Daner Rogers displayed heroism and courage on various fields of battle upon which he served, including for action taken during a fourteen-day attack, resulting in the destruction of an entire German division for which an honor was bestowed upon him by U. S. Army Lieutenant General George Patton, Jr. Among the medals and honors he received for his service to this country are the Bronze Star Medal, the EAME Theater Ribbon with four Bronze Stars per, the American Theater Ribbon, the Good Conduct Ribbon, the World War II Victory Medal and Combat Infantry Badge. He later received the Jubilee of Liberty award from then- Congresswoman Shelley Moore Capito in 2001 for which he was extremely proud; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge located on Interstate 64, 0.43 miles north of County Route 34, bridge number 40-34-15.00 (40A090), latitude 38.45599, longitude -81.93554, originally called the I-64 Winfield Interchange Bridge, in Putnam County, the “U. S. Army PFC Herman Daner Rogers Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested have made and be placed signs identifying the “U. S. Army PFC Herman Daner Rogers 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 Drema K. Rogers Justice, the daughter of PFC Herman Daner Rogers.

With the recommendation that the three committee substitutes be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the resolutions (Com. Sub. for S. C. R. 18, 20 and 27) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

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

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

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 Concurrent Resolution 19**, Rev. Rexford Montgomery Workman Memorial Bridge.

**Senate Concurrent Resolution 21**, US Army S/SGT Delmer R. Jones Memorial Bridge.

**Senate Concurrent Resolution 22**, Trautwein Family Bridge.

**Senate Concurrent Resolution 23**, Johnny Mack Bryant Memorial Bridge.

**Senate Concurrent Resolution 24**, US Army PFC Arland W. Hatcher Memorial Bridge.

**Senate Concurrent Resolution 25**, US Army PFC Cornelius Vance Memorial Bridge.

**Senate Concurrent Resolution 26**, Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge.

**Senate Concurrent Resolution 28**, US Marine Corps CPL Ronald "Duke" Varney Memorial Bridge.

And,

**Senate Concurrent Resolution 29**, US Army SSG Landon Clair Ray and US Army SPC4 Garry Dwight Haynes Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the resolutions (S. C. R. 19, 21, 22, 23, 24, 25, 26, 28 and 29) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

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

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

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4145**, Relating to carry or use of a handgun or deadly weapon.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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 Stollings, Plymale, Unger and Prezioso:**

**Senate Bill 611**—A Bill to amend and reenact §18-9F-9 of the Code of West Virginia, 1931, as amended, relating to requiring that the State Board of Education include, in the legislative rule on a model school crisis plan that it promulgates, certain protocols for responding to injuries and other medical emergencies on school property after normal school hours be included in school crisis response plans by certain date; and providing the applicability and requirements of those protocols as they apply to sports injuries.

Referred to the Committee on Education.

**By Senators Gaunch and Ashley:**

**Senate Bill 612**—A Bill to amend and reenact §46A-2-115 of the Code of West Virginia, 1931, as amended, relating to limits on charges a secured lender may recover from a consumer borrower upon default.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Ashley and Plymale:**

**Senate Bill 613**—A Bill to amend and reenact §31A-4-26 of the Code of West Virginia, 1931, as amended, relating to defining “unimpaired capital” and “unimpaired surplus” for purposes of calculating the lending limit of a state-chartered bank.

Referred to the Committee on Banking and Insurance.

**By Senators Gaunch and Ashley:**

**Senate Bill 614**—A Bill to amend and reenact §46A-2-121 of the Code of West Virginia, 1931, as amended, relating to unconscionability and fraudulent conduct.

Referred to the Committee on the Judiciary.

**By Senator Plymale:**

**Senate Bill 615**—A Bill to amend and reenact §31-18E-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Land Reuse Agency Authorization Act; including a municipal land bank as an agency that may acquire property; and providing that a municipal land bank may have the right of first refusal to buy any tax delinquent property, within municipal limits, for taxes owed and any related fees before the tax delinquent property is placed for public auction at tax sales.

Referred to the Committee on Government Organization.

**By Senators Boso, Ashley, Blair, Kirkendoll, Sypolt, Walters, Yost and Ferns:**

**Senate Bill 616**—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to Workers Compensation disability and death benefits; defining “professional firefighter”; and requiring the Insurance Commissioner to study the effects of the rebuttable presumptions created on the premiums charged for workers’ compensation for professional firefighters and the overall impact of the risk management programs, wage replacement, premium calculation for the cost providing coverage and the separation of professional firefighter functions from nonactive, nonfirefighting or support functions in volunteer fire departments.

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

**By Senator Blair:**

**Senate Bill 617**—A Bill to amend and reenact §6-7-1 of the Code of West Virginia, 1931, as amended, relating to setting pay periods to a semi-monthly schedule for officers and employees of the state, state institutions of higher education and the Higher Education Policy Commission.

Referred to the Committee on Government Organization.

**By Senators Carmichael, Hall and Unger:**

**Senate Bill 618**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31-15-12b, relating generally to economic development; and allowing the Economic Development Authority to refinance indebtedness of certain licensed commercial whitewater outfitters.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Blair, Carmichael, Cline, Gaunch, Karnes, Mullins and Trump:**

**Senate Bill 619**—A Bill to amend and reenact §29A-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §29A-3-5 and §29A-3-11 of said code; to amend said code by adding thereto a new section, designated §29A-3-19; to amend said code by adding thereto a new section, designated §29A-3A-20; and to amend said code by adding thereto a new article, designated §29A-3C-1, §29A-3C-2, §29A-3C-3, §29A-3C-4, §29A-3C-5 and §29A-3C-6, all relating to creating the Small Business Regulatory Relief Act; requiring sunset provisions in all future rulemaking affecting agencies and higher education; requiring sunset provisions in all future modifications of rules affecting agencies and higher education; providing exceptions; requiring agencies to respond to public comments during the rule-making process; requiring agencies to explain why or why not public comments were incorporated into the rule; providing that failure of an agency to adequately explain why or why not public comments were incorporated into the rule is grounds for rejection of the rule; requiring additional information to be included when an agency submits proposed legislation to the Legislative Rule-Making Review Committee, including an economic impact statement, detailed description of the purpose or objective of the rule, explanation of the statutory authority, public comments and written responses by the agency concerning those comments, requiring the agency's response address each issue and concern expressed by the comments received and whether the rule will be overly burdensome on business and industry by setting forth specific factors that must be addressed; creating the Small Business Regulatory Board; making findings; setting forth membership; establishing its authority to review and analyze existing and proposed rules for their impact on small businesses; requiring each agency to have at least one employee who serves as the small business regulatory coordinator for that agency; establishing their duties; requiring economic impact statements to be filed; providing for injunctive relief; requiring all executive branch agencies to review and evaluate all rules, guidelines, policies and recommendations with those of any federal counterparts and determine if the state's rules, guidelines, policies and recommendations are more stringent than those counterparts; requiring notice and comment for its own rules, guidelines, policies and recommendations; requiring the board to submit a report to the Legislature; requiring each agency to review each of its rules within four years to determine if its rules should be continued without change, modified or repealed; and defining the term "small business".

Referred to the Committee on Government Organization.

**By Senators Hall, Plymale, Unger and Prezioso:**

**Senate Bill 620**—A Bill to amend and reenact §5A-3-1 and §5A-3-3 of the Code of West Virginia, 1931, as amended, all relating to exempting the State Police from Purchasing Division requirements.

Referred to the Committee on Government Organization.

**By Senators Palumbo, Ashley, Gaunch, Karnes, Mullins, Walters and Ferns:**

**Senate Bill 621**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24A-2-7, relating to exempting taxicab companies whose drivers are independent contractors from providing workers' compensation coverage for the drivers.

Referred to the Committee on the Judiciary.

Senators Stollings, Plymale, Unger and Maynard offered the following resolution:

**Senate Concurrent Resolution 37**—Requesting Division of Highways to name bridge number 22-119-0.04, NB & SB (22A102 & 22A103), latitude 38.18215, longitude -81.84941, on U. S. Route 119, otherwise known as the North Pinnacle Rock Creek Bridge, in Lincoln County, the "U. S. Army PFC Willie Paul Wilson Bridge".

Whereas, PFC Willie Paul Wilson, known to his family and friends as "Jenkie", was born on November 11, 1925, in Julian, West Virginia, to John and Elsie Wilson; and

Whereas, PFC Willie Paul Wilson enlisted in the U. S. Army on February 29, 1944, and was assigned to Company K, 1st Platoon, 262nd Regiment; and

Whereas, PFC Willie Paul Wilson was killed on Christmas Eve, 1944, aboard the S. Leopoldville, a Belgian troopship being used in the English Channel to transport troops and supplies for the Allied war effort. On that evening, a German submarine torpedoed the S. Leopoldville when it was only five miles from the shore, killing at least 802 people in the most deadly tragedy to ever befall an American Infantry Division as the result of an enemy submarine attack; and

Whereas, PFC Willie Paul Wilson was awarded the Purple Heart on June 30, 1945, for the wounds that resulted in his death; and

Whereas, It is fitting that PFC Willie Paul Wilson be memorialized and honored for his great sacrifice in the area where he lived; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Division of Highways to name bridge numbers 22-119-0.04 NB & SB (22A102 & 22A103), latitude 38.18215, longitude -81.84941, on U. S. Route 119, otherwise known as the North Pinnacle Rock Creek Bridge, in Lincoln County, be named the "U. S. Army PFC Willie Paul Wilson Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army PFC Willie Paul Wilson 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 family of PFC Willie Paul Wilson.

Which, under the rules, lies over one day.

Senators Leonhardt, Ferns, Cline, Unger, Blair, Beach, Boley, Stollings and Laird offered the following resolution:

**Senate Resolution 39**—Designating February 17, 2016, as Nurses Unity Day at the Legislature.

Whereas, One in forty-three West Virginians is a nurse; and



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

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

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

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

Whereas, The expanding roles of Advanced Practice Registered Nurses as Nurse Anesthetists, Nurse Midwives, and Certified Nurse Practitioners in a variety of specialties provide improved cost-effective access to health services in our rural state; and

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

*Resolved by the Senate:*

That the Senate hereby designates February 17, 2016, as Nurses Unity Day at the Legislature; and, be it

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

At the request of Senator Leonhardt, 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.

### **Petitions**

Senator Ashley presented a petition from the National Association for Gun Rights and numerous West Virginia residents, supporting Engrossed Committee Substitute for House Bill 4145 (*Relating to carry or use of a handgun or deadly weapon*).

Referred to the Committee on the Judiciary.

Senator Sypolt presented a petition from Melvin Bonner and thirty-four Hambleton residents, requesting the proposed route for Corridor H highway be shifted south of Wolf Run Road, Hambleton, Tucker County, area.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

**Com. Sub. for Senate Bill 10**, Creating Unborn Child Protection from Dismemberment Abortion Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 16, 2016, for amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Plymale and Stollings, the following amendment to the bill was reported by the Clerk:

On page three, section one, line thirty-seven, after the word "article" by inserting a comma and the words "if the American Congress of Obstetricians and Gynecologists issues a confirmation that the conduct of the licensed medical practitioner was outside the scope of practice or contrary to the standard of care,".

Following discussion,

The question being on the adoption of the amendment offered by Senators Plymale and Stollings to the bill (Com. Sub. for S. B. No. 10), the same was put.

The result of the voice vote being inconclusive, Senator Stollings demanded a division of the vote.

A standing vote being taken, there were nine "yeas" and twenty-three "nays".

Whereupon, Senator Cole (Mr. President) declared the amendment offered by Senators Plymale and Stollings to the bill rejected.

There being no further amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 10 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 10 pass?"

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Leonhardt, Maynard, Mullins, Prezioso, Sypolt, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—24.

The nays were: Beach, Facemire, Laird, Miller, Palumbo, Romano, Snyder, Stollings and Takubo—9.

Absent: Plymale—1.

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. 10) passed with its title.

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

Thereafter, at the request of Senator Snyder, and by unanimous consent, the remarks by Senators Stollings, Ferns, Karnes and Palumbo regarding Engrossed Committee Substitute for Senate Bill 10 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Com. Sub. for Senate Bill 16**, Providing tax credit for providing broadband service to unserved areas.

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 Committee Substitute for Senate Bill 16 pass?"

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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

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. 16) 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 105**, Creating Tim Tebow Act allowing nonpublic school student participate in SSAC member school athletics.

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

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 105 pass?"

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Palumbo, Romano, Sypolt, Takubo, Trump, Unger, Walters, Woelfel and Cole (Mr. President)—25.

The nays were: Beach, Kessler, Laird, Prezioso, Snyder, Stollings, Williams and Yost—8.

Absent: Plymale—1.

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. 105) 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 267**, Modifying removal procedure for certain county, school district and municipal officers.

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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Unger—1.

Absent: Plymale—1.

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. 267) 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 283**, Creating crime when fire is caused by operation of a clandestine drug laboratory.

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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

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. 283) 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 351**, Dedicating severance tax proceeds.

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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 351) 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 356**, Eliminating consumers sales and service tax exemption for 2016 fiscal year.

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

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

**Eng. Com. Sub. for Senate Bill 400**, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund.

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

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

**Eng. Com. Sub. for Senate Bill 436**, Defining adequate shelter for dogs and cats.

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, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Karnes—1.

Absent: Plymale—1.

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. 436) passed.

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

**Eng. 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; defining adequate shelter for certain dogs and cats; giving discretion in determining adequate shelter in certain circumstances; and setting forth criminal penalties.

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

**Eng. Senate Bill 439**, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances.

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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 439) 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 462**, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: Miller and Unger—2.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 462) 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 504**, Relating to confidentiality of juvenile records.

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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

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. 504) 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 507**, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements.

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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 507) 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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 507) 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 515**, Authorizing payment of certain claims against state.

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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 515) 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, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 515) 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.

**Com. Sub. for Senate Bill 313**, Relating to school calendar and allowing limited use of available accrued instructional time.

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

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

**Com. Sub. for Com. Sub. for Senate Bill 315**, Providing for construction of statewide fiber optic broadband infrastructure network.

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 424**, Allowing fire departments assess fees.

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

On motion of Senator Kessler, the following amendment to the bill was reported by the Clerk:

On page two, section three-d, lines nineteen through twenty-three, by striking out all of subsection (d) and inserting in lieu thereof a new subsection, designated subsection (d), to read as follows:

(d) and Reimbursement fees for services rendered by the fire company or fire department must be reasonable: ~~Provided, however, That no~~ and the total fee for responding to any single incident or accident shall ~~may not~~ exceed \$500 ~~\$5,000~~, except: (1) An incident or accident involving hazardous materials; (2) a fire incident at commercial use properties or structures; or (3) a fire incident at industrial use properties or structures: ~~Provided, That the fee for any incident involving a single-family dwelling assessed against an owner-occupied residence may not exceed \$1,000.~~

Following discussion,

The question being on the adoption of Senator Kessler's amendment to the bill, and on this question, Senator Kessler demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Leonhardt, Miller, Palumbo, Prezioso, Romano, Snyder, Stollings, Takubo, Unger, Williams, Woelfel, Yost and Cole (Mr. President)—18.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Maynard, Mullins, Sypolt, Trump and Walters—15.

Absent: Plymale—1.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Kessler's amendment to the bill adopted.

The bill (Com. Sub. for S. B. 424), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 529**, Making certain sport and educational fantasy games lawful.

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

On motion of Senator Romano, the following amendment to the bill was reported by the Clerk:

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

## **ARTICLE 28. FANTASY GAMES.**

### **§47-28-1. Definitions.**

(a) "Fantasy game" means a fantasy or simulation sports game or educational game or contest that meets the following conditions:



(1) The value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the fantasy game.

(2) All winning outcomes reflect the relative knowledge and skill of participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.

(3) A winning outcome is not based on the score, point spread or performance of a single team or combination of such teams, or on any single performance of an individual athlete or player in a single event.

(b) "Fantasy game operator" means a person, as defined in section one, article nine of this chapter, that offers fantasy games for a cash prize to more than ten thousand members of the public.

**§47-28-2. Fantasy games authorized.**

(a) Nothing in this code shall be deemed to prohibit the offering of or participation in fantasy games as defined in this article.

(b) Nothing in this code or in any regulation, rule, ordinance or other law shall be deemed or construed to provide or impose criminal penalties or sanctions of any kind for offering or participating in fantasy games as defined in this article.

(c) A fantasy game operator offering fantasy games to residents of this state shall register annually with the West Virginia Attorney General and pay an initial registration fee of \$250,000 and an annual renewal fee of \$25,000 to be placed into the Consumer Protection Recovery Fund (Fund 1509). The Attorney General shall endeavor to protect all rights of West Virginians who participate in fantasy games and shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code in order to implement the provisions of this article to protect West Virginia consumers and regulate fantasy game operators. The registration fees required by this section shall be used for the purposes of the protection of West Virginia consumers, including, but not limited to, consumers of fantasy games.

The question being on the adoption of Senator Romano's amendment to the bill, the same was put and did not prevail.

The bill (Com. Sub. for S. B. 529), 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:

**Senate Bill 54**, Altering how tax is collected on homeowners' associations.

**Com. Sub. for Senate Bill 293**, Neighborhood Investment Program Act.

**Com. Sub. for Senate Bill 434**, Allowing home-based micro-processed foods sold at farmers markets.

**Eng. House Bill 4148**, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

**Eng. Com. Sub. for House Bill 4158**, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act.

**Eng. Com. Sub. for House Bill 4244**, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.

And,

**Eng. Com. Sub. for House Bill 4245**, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Palumbo, Hall and Miller.

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

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

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

The Senate again proceeded to the twelfth order of business.

Remarks were made by Senator Prezioso.

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

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

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Plymale.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 18, 2016, at 11 a.m.

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## **SENATE CALENDAR**

**Thursday, February 18, 2016  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 37 - US Army PFC Willie Paul Wilson bridge.

### **THIRD READING**

- Eng. Com. Sub. for Com. Sub. for S. B. 315 - Providing for construction of statewide fiber optic broadband infrastructure network.
- Eng. Com. Sub. for S. B. 400 - Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund (original similar to SB463).
- Eng. Com. Sub. for S. B. 424 - Allowing fire departments assess fees.
- Eng. Com. Sub. for S. B. 529 - Making certain sport and educational fantasy games lawful (original similar to HB4583).

### **SECOND READING**

- S. B. 54 - Altering how tax is collected on homeowners' associations - (Com. amend. pending).
- Com. Sub. for S. B. 293 - Neighborhood Investment Program Act (original similar to HB4563).
- Com. Sub. for S. B. 313 - Relating to school calendar and allowing limited use of available accrued instructional time.
- Com. Sub. for S. B. 434 - Allowing home-based micro-processed foods sold at farmers markets.
- Eng. H. B. 4148 - Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act (original similar to SB354).
- Eng. Com. Sub. for H. B. 4158 - Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act (original similar to SB447).
- Eng. Com. Sub. for H. B. 4244 - Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.
- Eng. Com. Sub. for H. B. 4245 - Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

## FIRST READING

- Com. Sub. for Com. Sub. for S. B. 259 - Amending Unfair Trade Practices Act.
- S. B. 352 - Dedicating corporation net income tax proceeds to railways (original similar to HB4029).
- S. B. 431 - Authorizing pharmacists and pharmacy interns dispense opioid antagonists (original similar to HB4335).
- S. B. 488 - Requiring WV Secondary School Activities Commission manage hypertrophic cardiomyopathy - (Com. amends. pending).
- S. B. 552 - Eliminating requirement sheriff pay jury costs to State Treasury.
- S. B. 553 - Merging purposes and provisions of Volunteer Fire Department Workers' Compensation Subsidy Program and Fund (original similar to HB4547).
- S. B. 573 - Prohibiting municipal annexation which would result in unincorporated territory within municipality.
- S. B. 579 - Eliminating WV Port Authority.
- Com. Sub. for S. B. 582 - Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.
- Com. Sub. for S. B. 597 - Relating to Health Care Authority.
- Eng. Com. Sub. for H. B. 4145 - Relating to carry or use of a handgun or deadly weapon - (Com. amend. pending).
- Eng. Com. Sub. for H. B. 4175 - Relating generally to home schooling - (Com. amends. and title amend. pending) (original similar to SB318).

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2016**

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**Thursday, February 18, 2016**

9:30 a.m.	Finance (If Necessary)	(Room 451M)
9 a.m.	Judiciary	(Room 208W)
2 p.m.	Government Organization	(Room 208W)