

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2016
TWENTY-FIFTH DAY

Charleston, W. Va., Saturday, February 6, 2016

The Senate met at 10 a.m.

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

Prayer was offered by the Honorable Gregory L. Boso, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael J. Romano, a senator from the twelfth district.

Pending the reading of the Journal of Friday, February 5, 2016,

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

The Clerk presented a communication from the Development Office, submitting its annual report of the Governor's Guaranteed Work Force Program as required by §5B-2D-6 of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the third order of business.

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

Eng. Senate Bill 32, Relating to withdrawal of candidates for office and filling vacancies.

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 two, section eleven, line fourteen, after the word “*elections*” by inserting the words “*or nonpartisan elections held in conjunction with a primary election.*”;

On page two, section eleven, line eighteen, after the word “*elections*” by inserting the words “*or nonpartisan elections held in conjunction with a general election.*”;

On page four, section eighteen, line twenty-five, after the word “has” by inserting the word “timely”;

And,

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

Eng. Senate Bill 32—A Bill to amend and reenact §3-5-11, §3-5-18 and §3-5-19 of the Code of West Virginia, 1931, as amended, all relating to withdrawal of candidates for office and filling vacancies; requiring the Secretary of State to create a notarized statement of withdrawal form; setting certain deadlines for filing of notarized statement of withdrawal form in order to withdraw as a candidate and to have one’s name removed from ballot; setting deadline for when the Secretary of State shall certify names of general election candidates to counties; requiring the certification of names of candidates that are the nominee of the party following the filling of a vacancy; prohibiting certification of names of candidates who timely filed a notarized statement of withdrawal; clarifying the process for determining if candidate is disqualified; designating the proper filing officer; removing State Election Commission from the process of voluntary withdrawal of candidates; authorizing executive committee to replace candidate who files a timely notarized statement of withdrawal and whose name would have otherwise appeared on the general election ballot; and setting and adjusting certain deadlines.

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

Engrossed Senate Bill 32, 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, 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)—33.

The nays were: None.

Absent: Boley—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. 32) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, 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)—33.

The nays were: None.

Absent: Boley—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. 32) takes effect from passage.

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

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

Eng. Com. Sub. for House Bill 4244—A Bill to amend and reenact §31C-2-6 of the Code of West Virginia, 1931, as amended, relating to 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; requiring public notice to be given of application; setting forth requirements for the public notice; and providing for notice to banking institutions and credit unions when requested for in writing.

Referred to the Committee on Banking and Insurance.

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 4245—A Bill to amend and reenact §31A-4-20 of the Code of West Virginia, 1931, as amended, relating to requirements for the review of the financial condition of state chartered banks; requiring the cashier or executive officer of a state banking institution to provide shareholders with the institution's most recent fiscal year audited financial statement; authorizing alternative delivery to shareholders and consolidated or combined statements; requiring that the board of directors of a bank, or its controlling bank holding company, appoint an outside independent auditing firm; eliminating the requirement that a bank transmit a copy of an audit report of its financial condition to the division of financial institutions; eliminating the approval required for a shareholder committee to utilize or employ registered or certified public accountants; and eliminating the division examiner's ability to require the presence of the examining committee or executive committee during an examination.

Referred to the Committee on Banking and Insurance.

The Senate proceeded to the fourth order of business.

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 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

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

Com. Sub. for Senate Bill 7 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended; and to amend and reenact §55-7B-5 of said code, all relating to the establishment of a wrongful conduct rule which applies when plaintiff's criminal conduct bars recovery; prohibiting the recovery of damages for a defendant's negligence or gross negligence suffered as a result of a plaintiff's commission or attempted commission of a felony; requiring proximate cause for a bar on recovery; establishing the burden of proof for the wrongful conduct rule; providing for the applicability of the wrongful conduct rule to all civil actions for personal injury and wrongful death, including any and all claims brought against a health care provider under the Medical Professional Liability Act; establishing the 2016 amendments

apply to all causes of action accruing on or after the effective date of those amendments; and applicability.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

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.

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 Senator Ferns:

Senate Bill 531—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-3-103; and to amend and reenact §59-1-10 of said code, all relating to requiring each judicial circuit to have a court-appointed special advocate program and each county to have special advocate for children in abuse and neglect proceedings; raising price of certified copy of birth certificate, death certificate or marriage license from \$5 to \$11; and creating a fund within the State Treasury to pay for implementation and sustenance of court-appointed special advocate programs.

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

By Senators Snyder, Romano, Facemire, Kessler, Kirkendoll, Laird, Miller, Prezioso, Yost, Stollings, Plymale and Williams:

Senate Bill 532—A Bill to amend and reenact §33-3-33 of the Code of West Virginia, 1931, as amended, relating to surcharge on fire and casualty insurance policies for purpose of funding volunteer fire departments; and providing that surcharge be increased to one percent.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

By Senators Snyder, Kirkendoll, Stollings and Unger:

Senate Bill 533—A Bill to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931, as amended, all relating to changes in distribution of net terminal income, excess net terminal income and excess lottery fund.

Referred to the Committee on Finance.

By Senators Trump, Kessler, Palumbo, Romano, Walters, Woelfel, Stollings, Plymale and Blair:

Senate Bill 534—A Bill to amend and reenact §17C-5-2, §17C-5-4 and §17C-5-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-5A-1a, §17C-5A-2, §17C-5A-2a, §17C-5A-3 and §17C-5A-3a of said code; and to amend said code by adding thereto a new section, designated §17C-5C-6, all relating to the procedures for driver's license suspension and revocation in criminal proceedings for driving under the influence of alcohol, controlled substances or drugs (DUI); requiring that an individual arrested for DUI be given a written statement informing the individual of the legal consequences of taking or refusing to take a preliminary breath test and informing the individual of the right to receive a secondary blood test; requiring that, following an individual's refusal to take a preliminary breath test, an arresting officer execute a signed statement that the officer administered all required warnings; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's driver's license on the basis of DUI in the absence of a conviction or a court-ordered suspension or revocation; eliminating all statutory provisions authorizing or requiring the Commissioner to require an individual to complete the Motor Vehicle Test and Lock program; including in the definition of "impaired state" the act of operating a vehicle with a blood concentration of five nanograms or more of delta 9-tetrahydrocannabinol; requiring revocation of an individual's driver's license following a conviction of DUI for operating a vehicle with a blood concentration of five nanograms or more of delta 9-tetrahydrocannabinol; completely eliminating the Division of Motor Vehicle's administrative hearing process for suspending and revoking driver's licenses based on a DUI; creating a process by which an individual may notify the Commissioner if his or her driver's license has been incorrectly suspended or revoked based on mistaken identity of the defendant in a transcript of judgment or conviction; requiring the Commissioner to take corrective action if a driver's license is incorrectly suspended or revoked based on mistaken identity; completely transferring jurisdiction for suspension or revocation of a driver's license based on DUI to the court with jurisdiction over the criminal proceedings; requiring a court to suspend a defendant's driver's license pending criminal proceedings if the defendant submitted to an alcohol concentration test that revealed a certain level of impairment, committed certain prior offenses, was involved in an accident causing death or bodily injury, or refused to submit to a secondary chemical test; allowing a court to suspend a defendant's license upon a finding that the defendant would otherwise pose a risk of harm to others during the pendency of criminal proceedings; establishing the right to request and receive judicial review of driver's license suspension orders pending criminal proceedings; establishing the scope of review for judicial review of driver's license suspension orders; requiring a defendant to surrender his or her driver's license upon suspension by the court; requiring the clerk of a court to transmit a copy of an order suspending or revoking a driver's license; establishing procedures and a timeline for the Division of Motor Vehicles to transfer jurisdiction of driver's license suspension and revocation to the courts; and eliminating all statutory provisions authorizing or requiring the Commissioner to prescribe the terms and conditions of driver's license reissuance following DUI.

Referred to the Committee on the Judiciary.

By Senators Boso, Carmichael, Ferns, Maynard, Mullins, Trump, Plymale and Blair:

Senate Bill 535—A Bill to amend and reenact §22-11-4 of the Code of West Virginia, 1931, as amended, relating to requiring the Secretary of the Department of Environmental Protection to undertake a review of rules and requirements to determine whether they are more stringent than needed to satisfy the requirements of the federal Clean Water Act and to revise or repeal all requirements that do not meet that statutory mandate.

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

By Senators Mullins, Carmichael, Boso, Maynard, Trump and Plymale:

Senate Bill 536—A Bill to amend chapter 64 of the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated article 12, relating to directing the Department of Environmental Protection to amend a current legislative rule relating to permits for construction, modification, relocation and operation of stationary sources of air pollutants.

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

By Senators Carmichael, Boso, Ferns, Gaunch, Maynard, Mullins, Palumbo, Trump and Plymale:

Senate Bill 537—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5F-1-2a, relating to requiring cabinet secretaries to review all rules under their jurisdiction similar to federal rules where state rules are more stringent than federal rules; and requiring reporting to the Joint Committee on Government and Finance within one year.

Referred to the Committee on Government Organization.

By Senator Blair:

Senate Bill 538—A Bill to amend and reenact §5B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §17A-2-6 of said code; and to amend and reenact §29-21-5 of said code, all relating to the salaries of appointed officers being fixed by the Governor.

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

By Senator Carmichael:

Senate Bill 539—A Bill to amend and reenact §54-2-14a of the Code of West Virginia, 1931, as amended, relating to condemnation proceedings; clarifying that near-surface minerals are part of the surface estate unless specifically granted to the mineral estate; and conforming certain language to accepted drafting standards.

Referred to the Committee on the Judiciary.

By Senators Carmichael, Boso and Trump:

Senate Bill 540—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12B-11b, relating to providing civil immunity to company insurance adjusters employed by an insurer from personal liability for claims of unfair trade practices; and providing that the immunity does not exempt company adjusters from requirements or responsibilities as a licensed adjuster.

Referred to the Committee on the Judiciary.

By Senators Ferns, Carmichael, Blair, Boso, Maynard, Mullins, Palumbo, Sypolt, Trump, Williams and Plymale:

Senate Bill 541—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29A-3C-1, §29A-3C-2, §29A-3C-3, §29A-3C-4, §29A-3C-5, §29A-3C-6 and §29A-3C-7, all relating to regulatory flexibility; and providing procedures to analyze availability of more flexible regulatory approaches for small businesses.

Referred to the Committee on Government Organization.

By Senators Ferns, Carmichael and Gaunch:

Senate Bill 542—A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating to admissibility of certain evidence in a civil action for damages; and allowing

the admission of the use or nonuse of a safety belt on the issues of negligence, contributory negligence, comparative negligence and failure to mitigate damages.

Referred to the Committee on the Judiciary.

By Senators Maynard, Carmichael, Blair, Boso, Ferns, Gaunch, Leonhardt, Mullins, Palumbo, Trump and Plymale:

Senate Bill 543—A Bill to amend and reenact §29A-3-11 of the Code of West Virginia, 1931, as amended, relating to requiring agencies to submit additional information when it submits a proposed legislative rule to the Legislature for approval; requiring an economic impact statement to be submitted; requiring the economic impact statement include the names of those persons who participated in the drafting of the statement, including the time spent preparing the statement; requiring the agency to make available a lead author of the statement or other qualified representative of the agency to discuss the statement; requiring the objective of the rule be submitted; requiring statutory authority for the rule be submitted; requiring public comments be submitted; requiring written responses to public comments be submitted and whether the agency modified the proposed rule in response to the comments and, if not, the reasons why; requiring the Legislative Rule-Making Review Committee to review this code, federal statutes and rules and local rules to determine if the proposed rule overlaps or is duplicative of those statutes or rules; requiring the Legislative Rule-Making Review Committee to consider whether the proposed rule would be overly burdensome on business and industry; and setting forth some of the criteria the Legislative Rule-Making Review Committee is to consider when reviewing the proposed rule.

Referred to the Committee on Government Organization.

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

Senate Concurrent Resolution 25—Requesting the Division of Highways to name bridge number 23-119/18-0.01 (23A141) (37.76693, 81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over Island Creek in Logan County, the “US Army PFC Cornelius Vance Memorial Bridge”.

Whereas, Cornelius Vance was born January 29, 1924, at Breeden, Wayne County, West Virginia, and later lived at Chauncey, Logan County, West Virginia; and

Whereas, Cornelius Vance served his country in World War II as an Army Private First Class, a member of the 5th Army, 15th Army Group, 85th Custer Division, 337th Infantry (Wolverines), Company B; and

Whereas, PFC Cornelius Vance fought in Rome-Arno, North Apennines and Po Valley Battles in Italy; and

Whereas, PFC Cornelius Vance was awarded the Purple Heart; three Bronze Stars; Good Conduct Medal; European, African and Middle Eastern Campaign Medals; World War II Victory Ribbon and an Honorable Service Lapel Button for his service during the war; and

Whereas, PFC Cornelius Vance was trained as an automatic rifleman and served in the Army’s 85th Division as a scout and combat infantryman, taking part in the Anzio Beach landing; and assisting the British 8th Army and the U. S. Army 10th Mountain Division with driving the German forces out of the Apennine Mountains; and

Whereas, PFC Cornelius Vance was wounded from gunshot and was transferred to a hospital in Naples, Italy; and

Whereas, Following recovery from his wound, PFC Cornelius Vance was assigned to guard prisoner of war German General Anton Dostler, and escort him to surrender and be tried by a military tribunal, at which he was later sentenced to die by firing squad. General Dostler had previously ordered the execution of 15 American soldiers who were captured while attempting to set explosives in a tunnel. To complete his duty to deliver the general for official surrender and trial, at one point in the journey, PFC Cornelius Vance had to draw his weapon and threaten a crowd of Italians to keep them from killing the general and, at another point, had to protect the general from American soldiers who attempted to remove the general from the vehicle; and

Whereas, After being discharged from the Army December 6, 1945, PFC Cornelius Vance, along with his brothers Preston and Randolph, returned home from the war to Logan County; and

Whereas, Cornelius Vance married Bertie Lou DeHart of Pine Creek, in the Omar area of Logan County, made their home at Chauncey, and raised seven children: Gloria Jean; Carlene; Donnie; Ronnie; Randal and twins, Pamela and Carmela; and

Whereas, Cornelius Vance worked twenty-eight years as a coal miner and, following a disabling injury as a miner, became a cook and housekeeper at home to help raise his children, and enjoyed hunting, gardening, canning and being a Sunday School teacher at the Walnut Grove Free Will Baptist Church; and

Whereas, Cornelius Vance also helped remodel his church building, assisted the Beth Haven Christian School founded by his brother, the Rev. Preston Vance, and regularly volunteered to drive disabled and elderly neighbors to help them with shopping, banking, medical and other personal errands; and

Whereas, It is appropriate to honor this veteran who served well his country, his family and his community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 23-119/18-0.01 (23A141) (37.76693, 81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over Island Creek in Logan County, the "US Army PFC Cornelius Vance 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 "US Army PFC Cornelius Vance Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

Senators Maynard, Stollings and Plymale offered the following resolution:

Senate Concurrent Resolution 26—Requesting the Division of Highways to name the bridge that traverses Hurricane Creek on U. S. Route 52, bridge number 50-52-21.27 (50A001), latitude 38.19237, longitude -82.59982, in Wayne County, originally called the Hubbardstown Bridge, the "Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge".

Whereas, Charles Edward Ellis and Ira Virgil Ellis were brothers, born in Hubbardstown in Wayne County, West Virginia; and

Whereas, Charles and Ira served this country during WWII in the United States Army, in which each brother sacrificed his life. Charles was killed on December 30, 1943, and Ira was killed on March 23, 1945; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge that traverses Hurricane Creek on U. S. Route 52, bridge number 50-52-21.27 (50A001), latitude 38.19237, longitude -82.59982, in Wayne County, originally called the Hubbardstown Bridge, the "Charles Edward Ellis and Ira Virgil Ellis 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 "Charles Edward Ellis and Ira Virgil Ellis 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 Herbert Wellman, Jr., Chairman of the Fort Gay Veterans Park.

Which, under the rules, lies over one day.

Senators Walters, Stollings and Plymale offered the following resolution:

Senate Concurrent Resolution 27—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 "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 in 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 "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 "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.

Which, under the rules, lies over one day.

Petitions

Senators Cline, Gaunch and Stollings, respectively, presented petitions from the Convention of States Action and numerous West Virginia residents, supporting an Article V convention to impose fiscal restraints, term limits and limitations on the power and jurisdiction of the federal government.

Referred to the Committee on the Judiciary.

Senator Stollings presented a petition from Ashley Ballard and three hundred eleven Boone County education employees, urging the Legislature to increase funding for the Public Employees Insurance Agency.

Referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 23, Johnny Mack Bryant Memorial Bridge.

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

Senate Concurrent Resolution 24, U. S. Army PFC Arland W. Hatcher 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. Com. Sub. for Senate Bill 68, Disallowing Health Care Authority to conduct rate review and set rates for hospitals.

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 68 pass?"

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Romano—1.

Absent: Boley—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. 68) 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 326, Repeal and recodify law relating to contributing to delinquency of minor child.

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, 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)—33.

The nays were: None.

Absent: Boley—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. 326) 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 361, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly.

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, 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)—33.

The nays were: None.

Absent: Boley—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. 361) 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 House Bill 4007, Relating generally to appointment of attorneys to assist the Attorney General.

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 House Bill 4007 pass?"

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

The nays were: Miller and Romano—2.

Absent: Boley—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 H. B. 4007) passed.

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

Eng. Com. Sub. for House Bill 4007—A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-3-3a, all relating generally to appointment of attorneys to assist the Attorney General; authorizing the Attorney General to appoint special assistant attorneys general; establishing when special assistant attorneys general can be appointed; establishing competitive bidding process for the use of private attorneys on a contingency fee basis by the Attorney General; requiring written determinations for the Attorney General's selection of private attorneys to represent the state on a contingency fee basis; setting fees for contingency fee legal arrangements or contracts between private attorneys and the Attorney General; requiring appointed private attorneys to accept an award of attorney fees in accordance with, and no greater than, the established fee limitations; establishing supervision requirements for private lawyers representing the state on a contingency fee basis; requiring the posting of certain documents relating to the Attorney General's retention of private attorneys to represent the state on a contingency fee basis; providing for the designation as a special assistant attorney general upon appointment; requiring Attorney General reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports; updating and removing outdated provisions; and defining terms.

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 278, Clarifying physicians' mutual insurance company is not state or quasi-state actor.

On second reading, coming up in regular order, was read a second time and 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 6, Requiring drug screening and testing of applicants for TANF program.

Com. Sub. for Senate Bill 39, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area.

Com. Sub. for Senate Bill 43, Clarifying means of posting to prohibit hunting or trespassing.

Com. Sub. for Senate Bill 309, Relating to child-care center licensing and exempting county parks and recreation from licensure.

Senate Bill 345, Relating to parking on state-owned or leased property.

Senate Bill 346, Updating projects managed by Project Management Office.

Senate Bill 349, Updating meaning of federal adjusted gross income .

Senate Bill 419, Terminating taxes imposed under Workers' Compensation Debt Reduction Act of 2005.

And,

Senate Bill 426, Continuing Office of Coalfield Community Development.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Blair.

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

The Senate proceeded to the thirteenth order of business.

Senator Trump called attention to today being the birthday of Richie Novak, Senate Technical Support, and on behalf of the Senate extended felicitations and good wishes to Richie Novak.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 8, 2016, at 11 a.m.
