

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, W. Va., Thursday, February 18, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Mike House, Ambassador Baptist Church, Elkins, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable John R. Unger II, a senator from the sixteenth district.

Pending the reading of the Journal of Wednesday, February 17, 2016,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 3019—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-2-13, all relating to requiring official business and records of the state and its political subdivisions be conducted in English, and providing exceptions, limitations, and a definition.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2016, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4209—A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; changing rate of tax imposed on certain eligible acute care hospitals for the fiscal year 2017; specifying purposes for which funds collected may be expended; providing for distribution of remaining funds at the end of fiscal year; and extending expiration date for tax.

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

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

Eng. Com. Sub. for House Bill 4291—A Bill to amend and reenact §61-8D-5 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for teachers and service personnel who commit sexual offenses against children with whom they hold positions of trust; providing that upon conviction for sexual offenses against children with whom they hold positions of trust such teachers and service personnel are prohibited from being employed by any educational, vocational, training, day care, group home, foster care program, or rehabilitation facility in the state; and defining terms.

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

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 4323—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents by well operators and pipeline operators; defining terms; establishing reporting requirements; establishing obligations of local emergency telephone operators; providing for recording and handling of calls; setting forth administrative civil penalty; and providing appeal process.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 4347—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to providing pregnant women priority to substance abuse treatment.

Referred to the Committee on Health and Human Resources.

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

Eng. House Bill 4378—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §44A-3-17 and §44A-3-18, all relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person; defining “relative”; providing a relative may apply for access to a “protected person”; setting forth time standards in which to conduct a hearing after an application is filed; providing for an emergency hearing under particular circumstances; providing for service of an application upon a guardian and setting time standards for service thereof; providing for the entry of an order by the court following application and a hearing conducted thereon; providing standards for a court to observe and implement in issuing a ruling on an application; providing the court may issue attorney’s fees to a

prevailing party; setting forth particular duties for a guardian; and, providing criteria upon which a court may relieve a guardian of further responsibility.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 4417—A Bill to amend and reenact §46A-2-130 the Code of West Virginia, 1931, as amended, relating to limitations on garnishment generally; potentially increasing wages protected from garnishment.

Referred to the Committee on the Judiciary.

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 218, Division of Labor rule relating to minimum wage and maximum hours.

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

Com. Sub. for Senate Bill 218 (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to minimum wage and maximum hours.

And,

Senate Bill 481, Authorizing distillery operators to offer liquor for purchase and consumption on premises.

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

Com. Sub. for Senate Bill 481 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating to authorizing operators of a distillery or mini-distillery to offer for purchase and consumption liquor on the premises if purchased and consumed at a Class A private club license operating on the premises of the distillery or mini-distillery; and allowing distilleries and mini-distilleries to sell and serve alcohol beginning at 10:00 a.m. on Sundays.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 339, Establishing Judicial Compensation Commission.

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

Com. Sub. for Senate Bill 339 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §51-12-1, §51-12-2 and §51-12-3, all relating to establishing a judicial compensation commission; setting responsibilities for commission; establishing membership of commission; setting terms of service for appointed members; setting eligibility requirements for certain commission members; providing that members of commission are ineligible for appointment to state judicial position while serving on commission; providing for reimbursement of expenses incurred in carrying out responsibilities of commission; providing for filling of vacancies on commission; giving commission authority to make salary recommendations for certain judicial officers to the Legislature; providing for location of commission meetings; setting meeting notice requirements; directing election of a chairperson; setting quorum requirements; permitting commission to request staff assistance from Joint Committee on Government and Finance and administrative office of Supreme Court of Appeals; requiring meetings be conducted pursuant to open meetings laws; directing commission to study compensation structure for certain judicial officers for purposes of preparing a report; setting forth required factors to be considered in making recommendations regarding compensation; providing for filling of commission vacancies; establishing certain dates for commission action; providing for filing of commission reports and recommendations with certain offices; requiring a bill enacting commission's salary recommendations be introduced by the presiding officer of the Senate and House of Delegates no later than the twentieth day of legislative session following receipt of report; requiring a bill enacting commission's salary recommendations be reintroduced by the presiding officer of the Senate and House of Delegates in each subsequent legislative session if not enacted; providing that commission be adjourned for three years following submission of report; and making technical corrections.

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

Senate Bill 455, Allowing person to be both limited video lottery operator and retailer.

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,

Charles S. Trump IV,
Chair.

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

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

Your Committee on the Judiciary has had under consideration

Senate Bill 478, Authorizing licensees who sell growlers to offer samples.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 500, Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network.

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

Com. Sub. for Senate Bill 500 (originating in the Committee on Finance)—A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the State Police to hold training classes for certification to access and use the West Virginia Automated Police Network; authorizing a fee to be charged for the training; creating a fund in which the fees are to be deposited; and specifying what the funds may be used for.

With the recommendation that the committee substitute 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 505, Exempting certain uses of field gas from motor fuel excise taxes.

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

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 520, Allowing PEIA ability to recover benefits or claims obtained through fraud.

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

Com. Sub. for Senate Bill 520 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §5-16-12 and §5-16-12a of the Code of West Virginia, 1931, as amended, all relating to willful misrepresentation to gain benefits or payment under the Public Employees Insurance Act; establishing certain acts as violations of the act; providing for civil liability for improperly received benefits, overpayments or other sums; authorizing set off by the director to recover overpayment; authorizing investigation by the director of misrepresentations by an employer, employee or providers under the Public Employees Insurance Act; authorizing the director to issue administrative subpoenas; providing requirements for service of subpoenas; authorizing fees for service and witnesses; establishing a process to compel obedience with a subpoena; authorizing the agency to recover benefits or claims obtained by fraud through administrative hearing; providing for the confidentiality of data; and providing criminal penalties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Pensions has had under consideration

Senate Bill 563, Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members.

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,

C. Edward Gaunch,
Chair.

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

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

Your Committee on the Judiciary has had under consideration

Senate Bill 581, Eliminating sunset provision terminating pilot domestic violence court program.

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

Com. Sub. for Senate Bill 581 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §48-27-301 of the Code of West Virginia, 1931, as amended, and to amend and reenact §51-2A-2 of said code, all relating to eliminating the sunset provision terminating the pilot domestic violence court program; continuing domestic violence court initiative designed to prevent domestic violence; expanding the initiative from one pilot court to five courts; permitting Supreme Court of Appeals to determine each domestic violence court is to be located; and making other technical and conforming changes.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Pensions has had under consideration

Senate Bill 595, Relating to retirement credit for members of WV National Guard.

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

Com. Sub. for Senate Bill 595 (originating in the Committee on Pensions)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-15c; and to amend said code by adding thereto a new section, designated §18-7A-17b, all relating to retirement credit for members of the West Virginia National Guard; and establishing procedure for purchase of military service credit by members of certain retirement systems with current or prior service in the West Virginia National Guard.

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,

C. Edward Gaunch,
Chair.

The bill (Com. Sub. for S. B. 595), 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

Eng. House Bill 4161, Relating to levies on classifications of property by the Board of Public Works.

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

Respectfully submitted,

Mike Hall,
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 Walters, Blair, Mullins, Takubo and Carmichael:

Senate Bill 622—A Bill to amend and reenact §5-16-4 of the Code of West Virginia, 1931, as amended, relating to the composition of the Public Employees Insurance Agency Finance Board; reducing the number of members; and changing the experience requirements for members.

Referred to the Committee on Government Organization.

By Senators Plymale (By Request), Woelfel (By Request) and Facemire:

Senate Bill 623—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4 and §5-30-5, all relating to state recognition of Native American tribes; defining terms; designating certain tribes as recognized by the state; establishing criteria for state recognition of additional tribes; authorizing unique trademarks for certain arts and crafts; prohibiting gambling; and providing criminal penalty for unauthorized use of trademark.

Referred to the Committee on Government Organization.

By Senators Gaunch, Cline, Takubo, Trump, Walters, Woelfel, Plymale, Prezioso, Boso, Ferns and Facemire:

Senate Bill 624—A Bill to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-9A-2 of said code; to amend said code by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and to amend and reenact §62-1D-8 of said code, all relating generally to human trafficking; designating the Division of Justice and Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking; eliminating existing criminal offense and penalties for human trafficking; creating felony offenses and penalties for trafficking an individual; defining terms; creating felony offenses and penalties for using an individual in forced labor; creating felony offenses and penalties for using an individual in debt bondage; creating felony offenses and penalties for compelling an adult through coercion to engage in commercial sexual activity; creating a felony offense for maintaining or making available a minor for the purpose of engaging in commercial sexual activity; clarifying that consent of minor and misbelief as to age are not defenses to prosecution for sexual servitude offense; creating a felony offense of patronizing an individual to engage in commercial sexual activity; clarifying that each victim shall be considered a separate offense; limiting ability for parole in circumstances where the court makes a finding of aggravated circumstances; defining aggravated circumstances; providing for restitution to victims and the enforcement of a judgment order for restitution; directing unclaimed restitution to be paid to the Crime Victims Compensation Fund; providing for disgorgement of profits and debarment from state and local government contracts; making victims eligible for compensation under the Crime Victims Compensation Fund; providing for criminal immunity for offense of prostitution if individual was a minor at time of offense and was a victim at time of offense; providing for expungement of prostitution conviction for victims of trafficking; and authorizing law enforcement to use wiretaps to conduct investigations.

Referred to the Committee on the Judiciary.

By Senators Trump, Kessler, Unger, Walters, Prezioso and Facemire:

Senate Bill 625—A Bill to amend and reenact §22-30-14 of the Code of West Virginia, 1931, as amended, relating to limitations on public access to information relating to the Aboveground Storage Tank Act.

Referred to the Committee on the Judiciary.

By Senators Takubo, Mullins, Stollings and Plymale:

Senate Bill 626—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to requiring the Secretary of the Department of Health and Human Resources to seek a waiver within the Supplemental Nutrition Assistance Program to allow that benefits issued under the Supplemental Nutrition Assistance Program be limited to purchases with the same or similar nutritional value as purchases allowable under the Women's,

Infant and Children Program; requiring the secretary to coordinate with appropriate state agencies in seeking the waiver; and requiring the secretary to report to the Legislative Oversight Commission on Health and Human Resources Accountability concerning progress made toward seeking the waiver by December 31, 2017.

Referred to the Committee on Health and Human Resources.

By Senators Takubo, Maynard, Mullins, Stollings, Trump and Plymale:

Senate Bill 627—A Bill to amend and reenact §30-3A-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §55-7-23 of said code, all relating to permitting physicians to decline prescribing a controlled substance in certain circumstances; limiting disciplinary action on a medical license for not prescribing or discontinuing prescribing a controlled substance in certain circumstances; precluding a criminal action for not prescribing or discontinuing prescribing a controlled substance in certain circumstances; and limiting liability for not prescribing or discontinuing prescribing a controlled substance in certain circumstances.

Referred to the Committee on the Judiciary.

By Senators Takubo, Mullins, Stollings, Plymale and Unger:

Senate Bill 628—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-10b; and to amend said code by adding thereto a new section, designated §30-14-12d, all relating to palliative or emergent treatment for terminally ill or critically injured incapacitated indigent patients whose medical directives would otherwise be made under the authority of the Commissioner of Human Services; defining certain terms; providing that a treating physician with the concurrence of another treating physician may direct a palliative or emergent medical care plan or treatment for terminally ill or critically injured incapacitated indigent patients, including when not to resuscitate, when Human Services delays in providing a directive for medical treatment; and providing that in order to direct a palliative or emergent treatment plan, two treating physicians must concur that Human Services' delay has resulted in the patient having to endure unnecessary pain and suffering and that any remedial medical intervention likely would not lead to any meaningful recovery consistent with restoring an incapacitated indigent patient to a minimally acceptable quality of life.

Referred to the Committee on Health and Human Resources.

By Senators Takubo, Maynard, Mullins, Stollings and Plymale:

Senate Bill 629—A Bill to amend and reenact §60A-9-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60A-9-4b, all relating to reports by the Board of Pharmacy; requiring the board to include in its reports any patients in a pain management clinic and individuals admitted to a hospital or emergency room for a drug overdose; and requiring information from those reports be part of a patient's hospital chart.

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

By Senators Walters, Plymale and Gaunch:

Senate Bill 630—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-18f, relating to county boards of education; licensed school psychologists; and providing that maximum licensed school psychologist-pupil ratio is one thousand five hundred pupils for each licensed school psychologist.

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

By Senator Walters:

Senate Bill 631—A Bill to amend and reenact §18b-1-1d of the Code of West Virginia, 1931, as amended, relating to retirement and separation incentives.

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

By Senator Sypolt:

Senate Bill 632—A Bill to amend and reenact §18-2-26a of the Code of West Virginia, 1931, as amended, relating to county superintendents of schools and members of county boards meeting to consider whether the laws of this state might better empower and equip the county boards to attain the goals established for public education by the Legislative Oversight Commission on Education Accountability and the state board; and to report to the Legislative Oversight Commission on Education Accountability and the state board.

Referred to the Committee on Education.

Senators Plymale, Woelfel, Stollings, Maynard and Facemire offered the following resolution:

Senate Concurrent Resolution 38—Requesting bridge number 06-64-19.71 EB & WB (06A145, 06A192) (38.41793, -82.26105), locally known as the Ona Mall Bridge EB and WB, carrying Interstate 64 over Cabell County Route 60/89 in Cabell County, be named the “Army PFC Denver Holly Memorial Bridge”.

Whereas, Denver Holly was born in Livingston, West Virginia, on August 11, 1920. He lived in Holly Grove, Hansford, and in a few other towns in Kanawha County until he was 22 years old; and

Whereas, Denver Holly joined the U. S. Army on July 17, 1942. Denver was a Private First Class and served his country in Europe during World War II. He was an infantryman and, during battles, was an ammunition runner. In 1944, he was wounded twice while serving in France; and

Whereas, PFC Denver Holley’s service during World War II earned him the Purple Heart Medal with Cluster, American Theater Service Ribbon, European African Middle Eastern Service Ribbon and World War II Victory Ribbon; and

Whereas, Following his honorable discharge from the Army following the war, PFC Denver Holley lived in Huntington and Barboursville for 41 years; and

Whereas, PFC Denver Holly passed away on December 17, 2015; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 06-64-19.71 EB & WB (06A145, 06A192) (38.41793, -82.26105), locally known as the Ona Mall Bridge EB and WB, carrying Interstate 64 over Cabell County Route 60/89 in Cabell County, be named the “Army PFC Denver Holly Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming it the “Army PFC Denver Holly Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the family of the late Denver Holley.

Which, under the rules, lies over one day.

Senators Ferns, Yost, Stollings, Plymale, Maynard, Unger, Leonhardt, Prezioso, Williams and Kessler offered the following resolution:

Senate Resolution 40—Designating February 18, 2016, as West Virginia Kids at Risk Day at the Legislature.

Whereas, The State of West Virginia and the West Virginia Child Care Association have some of the best child welfare professionals and agencies in the country; and

Whereas, These child welfare professionals and agencies have dedicated their time to making life better for West Virginia's children who are at risk; and

Whereas, These West Virginia professionals and agencies have a compassion that never ends, a hope for a better tomorrow and a dedication to their efforts through the long haul; and

Whereas, These West Virginia professionals and agencies work with West Virginia's child welfare stakeholders to eliminate policy barriers and day to day practices that reduce the effective utilization of in-state resources; and

Whereas, Our state's child welfare professionals and agencies do everything possible to provide opportunities for West Virginia's kids at risk to receive care in West Virginia, where they can remain in their communities, with their families and connected to their support systems; and

Whereas, These professionals and agencies are regulated by the State of West Virginia through legislation and by oversight of the West Virginia Department of Health and Human Resources and the Department of Education; and

Whereas, Our state's stringent licensing requirements and standards of care ensure that children at risk in West Virginia are receiving the best quality of care; and

Whereas, By using West Virginia child welfare professionals and agencies our state is doing what is best for West Virginia's kids at risk and their families; and

Whereas, These West Virginia child care professionals and agencies advocate for, and deliver services and support to provide for the safety, well-being and opportunity for kids at risk to achieve their hopes and dreams; and

Whereas, These professionals and agencies provide family driven, youth guided, culturally competent and trauma informed care for the citizens of West Virginia; and

Whereas, The West Virginia professionals, who care for the at-risk children in our state and the organizations that exist to impact the lives of these children and their families, provide quality care in the kids' and families' communities; and

Whereas, This quality care is provided in a variety of settings, including, community agencies, hospitals, residential group homes, foster families, emergency shelters, community and educational institutions, and seeks to provide resources and guidance that promotes the safety, well-being and permanency of West Virginia's at-risk kids; and

Whereas, West Virginia's child welfare providers dedicate themselves to excellence in their profession through licensing, advocacy, education and professional development; and

Whereas, The Senate recognizes and appreciates the outstanding dedication, devotion and care of West Virginia's child welfare professionals and agencies, and of the West Virginia Child Care Association, all for their caring, commitment and for making a difference in the lives of at-risk children in the State of West Virginia, their families and communities; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 18, 2016, as West Virginia Kids at Risk 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 officials with Kids at Risk Day.

At the request of Senator Ferns, 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 proceeded to the seventh order of business.

Senate Concurrent Resolution 37, US Army PFC Willie Paul Wilson 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 Com. Sub. for Senate Bill 315, Providing for construction of statewide fiber optic broadband infrastructure network.

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 315 pass?"

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Cline, Facemire, Ferns, Gaunch, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—29.

The nays were: Carmichael, Hall, Karnes, Prezioso and Woelfel—5.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 315) 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 Kessler, and by unanimous consent, the remarks by Senators Walters, Woelfel, Karnes, Carmichael and Boso regarding the passage of Engrossed

Committee Substitute for Committee Substitute for Senate Bill 315 were ordered printed in the Appendix to the Journal.

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

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

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 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, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—30.

The nays were: Laird, Miller, Snyder and Unger—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 400) 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 424, Allowing fire departments assess fees.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 424) 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 529, Making certain sport and educational fantasy games lawful.

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 529 pass?"

On the passage of the bill, the yeas were: Beach, Blair, Boley, Carmichael, Cline, Ferns, Gaunch, Karnes, Kirkendoll, Leonhardt, Maynard, Stollings, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—18.

The nays were: Ashley, Boso, Facemire, Hall, Kessler, Laird, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Unger and Yost—16.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 529) 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 Kessler, and by unanimous consent, the remarks by Senator Unger regarding the passage of Engrossed Committee Substitute for Senate Bill 529 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

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

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

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

On page one, section nine-o, line four, by striking out the word "all" and inserting in lieu thereof the word "its".

The bill (S. B. 54), as amended, was then ordered to engrossment and third reading.

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

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 313, Relating to school calendar and allowing limited use of available accrued instructional time.

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

On motion of Senator Mullins, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page three, section forty-five, line forty-seven, by striking out the words "that are to" and inserting in lieu thereof the words "which may";

And,

On page three, section forty-five, lines sixty-one through sixty-eight, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision, designated subdivision (2), to read as follows:

(2) May count unused accrued instructional time toward the one hundred eighty instructional day requirement: *Provided*, That the instructional days recovered through the use of available accrued instructional time need not be separate instructional days.

Following discussion,

The question being on the adoption of the amendments offered by Senator Mullins to the bill, the same was put and prevailed.

The bill (Com. Sub. for S. B. 313), as amended, was then ordered to engrossment and third reading.

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

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

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.

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

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

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

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.

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

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.

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

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Com. Sub. for Senate Bill 259, Amending Unfair Trade Practices Act.

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

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

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

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

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

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

Senate Bill 579, Eliminating WV Port Authority.

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

Com. Sub. for Senate Bill 597, Relating to Health Care Authority.

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

And,

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

Following a point of inquiry by Senator Unger, with resultant response from Senator Hall.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Plymale, Kessler, Stollings and Miller.

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

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

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

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, unanimous consent being granted, it was ordered that the Journal show had Senator Plymale been present in the chamber on yesterday, Wednesday, February 17, 2016, he would have voted "yea" on the passage of Engrossed Committee Substitute for Senate Bill 10, Engrossed Committee Substitute for Committee Substitute for Senate Bill 16, Engrossed Committee Substitute for Senate Bill 267, Engrossed Committee Substitute for Senate Bill 283, Engrossed Senate Bill 351, Engrossed Committee Substitute for Senate Bill 436, Engrossed Senate Bill 439, Engrossed Senate Bill 462, Engrossed Committee Substitute for Senate Bill 504, Engrossed Senate Bill 507 and Engrossed Senate Bill 515 and "nay" on the passage of Engrossed Committee Substitute for Senate Bill 105.

At the request of Senator Prezioso, the name of Senator Prezioso was removed as a sponsor of **Engrossed Committee Substitute for Senate Bill 529** (*Making certain sport and educational fantasy games lawful*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 19, 2016, at 11 a.m.

SENATE CALENDAR

**Friday, February 19, 2016
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 38 - Army PFC Denver Holly Memorial Bridge.

THIRD READING

Eng. S. B. 54 - Altering how tax is collected on homeowners' associations.

Eng. Com. Sub. for S. B. 293 - Neighborhood Investment Program Act (original similar to HB4563).

Eng. Com. Sub. for S. B. 313 - Relating to school calendar and allowing limited use of available accrued instructional time.

Eng. 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.

SECOND 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).

FIRST READING

- Com. Sub. for S. B. 218 - Division of Labor rule relating to minimum wage and maximum hours (original similar to HB4124).
- Com. Sub. for S. B. 339 - Establishing Judicial Compensation Commission.
- S. B. 478 - Authorizing licensees who sell growlers to offer samples - (Com. amend. and title amend. pending).
- Com. Sub. for S. B. 481 - Authorizing distillery operators to offer liquor for purchase and consumption on premises (original similar to HB4565).
- Com. Sub. for S. B. 500 - Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network.
- S. B. 505 - Exempting certain uses of field gas from motor fuel excise taxes (original similar to SB38).
- Com. Sub. for S. B. 520 - Allowing PEIA ability to recover benefits or claims obtained through fraud (original similar to HB4543).
- Com. Sub. for S. B. 581 - Eliminating sunset provision terminating pilot domestic violence court program.
- Eng. H. B. 4161 - Relating to levies on classifications of property by the Board of Public Works (original similar to SB432).

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

Friday, February 19, 2016

9:30 a.m.

Finance

(Room 451M)