

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2016
FORTY-THIRD DAY

Charleston, W. Va., Wednesday, February 24, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Andy Colagrosso, King's River Ministries, St. Albans, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Gregory L. Boso, a senator from the eleventh district.

Pending the reading of the Journal of Tuesday, February 23, 2016,

At the request of Senator Trump, 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 with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

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:

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

That §55-7-13d of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §55-7B-5 of said code be amended and reenacted, all to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-13d. Determination of fault; imputed fault; ~~plaintiff's involvement in felony criminal act; when plaintiff's criminal conduct bars recovery; burden of proof; damages; stay of action; limitations; applicability; severability.~~

(a) *Determination of fault of parties and nonparties.*

(1) In assessing percentages of fault, the trier of fact shall consider the fault of all persons who contributed to the alleged damages regardless of whether the person was or could have been named as a party to the suit;

(2) Fault of a nonparty shall be considered if the plaintiff entered into a settlement agreement with the nonparty or if a defending party gives notice no later than ~~one hundred-eight~~ one hundred eighty days after service of process upon said defendant that a nonparty was wholly or partially at fault. Notice shall be filed with the court and served upon all parties to the action designating the nonparty and setting forth the nonparty's name and last-known address, or the best identification of the nonparty which is possible under the circumstances, together with a brief statement of the basis for believing such nonparty to be at fault;

(3) In all instances where a nonparty is assessed a percentage of fault, any recovery by a plaintiff shall be reduced in proportion to the percentage of fault chargeable to such nonparty. Where a plaintiff has settled with a party or nonparty before verdict, that plaintiff's recovery will be reduced in proportion to the percentage of fault assigned to the settling party or nonparty, rather than by the amount of the nonparty or party's settlement;

(4) Nothing in this section is meant to eliminate or diminish any defenses or immunities, which exist as of the effective date of this section, except as expressly noted herein;

(5) Assessments of percentages of fault for nonparties are used only as a vehicle for accurately determining the fault of named parties. Where fault is assessed against nonparties, findings of such fault do not subject any nonparty to liability in that or any other action, or may not be introduced as evidence of liability or for any other purpose in any other action; and

(6) In all actions involving fault of more than one person, unless otherwise agreed by all parties to the action, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating the percentage of the total fault that is allocated to each party and nonparty pursuant to this article. For this purpose, the court may determine that two or more persons are to be treated as a single person.

(b) *Imputed fault.* — Nothing in this section may be construed as precluding a person from being held liable for the portion of comparative fault assessed against another person who was acting as an agent or servant of such person, or if the fault of the other person is otherwise imputed or attributed to such person by statute or common law. In any action where any party seeks to impute fault to another, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, on the issue of imputed fault.

(c) ~~*Plaintiff's involvement in felony criminal act*~~ *When plaintiff's criminal conduct bars recovery.* — In any civil action, ~~a defendant is not liable for damages that the plaintiff suffers as a result of the negligence or gross negligence of a defendant if such damages arise out of the plaintiff's commission, attempt to commit or fleeing from the commission of a felony criminal act.~~ Provided, That the plaintiff

~~has been convicted of such felony, or if deceased, the jury makes a finding that the decedent committed such felony. a person or person's legal representative who asserts a claim for damages may not recover if:~~

~~(1) Such damages arise out of the person's commission, attempted commission, or immediate flight from the commission or attempted commission of a felony; and~~

~~(2) That the person's damages were suffered as a proximate result of the commission, attempted commission, or immediate flight from the commission or attempted commission of a felony.~~

~~(d) *Burden of proof.* — The burden of alleging and proving comparative fault shall be upon the person who seeks to establish such fault. The burden of alleging and proving the defense set forth in subsection (c) of this section shall be upon the person who seeks to assert such defense: *Provided*, That in any civil action in which a person has been convicted or pleaded guilty or no contest to a felony, the claim shall be dismissed if the court determines as a matter of law that the person's damages were suffered as a proximate result of the felonious conduct to which the person pleaded guilty or no contest, or upon which the person was convicted.~~

~~(e) *Damages.* — For purposes of this section "damages" includes all damages which may be recoverable for personal injury, death, or loss of or damage to property, including those recoverable in a wrongful death action.~~

~~(f) *Stay of action.* — Any civil action in which the defense set forth in subsection (c) is asserted shall be stayed by the court on the motion of the defendant during the pendency of any criminal action which forms the basis of the defense, including appeals, unless the court finds that a conviction in the criminal action would not constitute a valid defense under subsection (c).~~

~~(e)(g) *Limitations.* — Nothing in this section creates a cause of action. Nothing in this section alters, in any way, the immunity of any person as established by statute or common law.~~

~~(f)(h) *Applicability.* — This section applies to all causes of action arising or accruing on or after the effective date of its enactment. The amendments to this section enacted during the 2016 session of the Legislature shall apply to all causes of action accruing on or after the effective date of those amendments.~~

~~(g)(i) *Severability.* — The provisions of this section are severable from one another, so that if any provision of this section is held void, the remaining provisions of this section shall remain valid.~~

ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.

§55-7B-5. Health care actions; complaint; specific amount of damages not to be stated; limitation on bad faith claims; filing of first party bad faith claims; when plaintiff's criminal conduct bars recovery.

(a) In any medical professional liability action against a health care provider no specific dollar amount or figure may be included in the complaint, but the complaint may include a statement reciting that the minimum jurisdictional amount established for filing the action is satisfied. However, any party defendant may at any time request a written statement setting forth the nature and amount of damages being sought. The request shall be served upon the plaintiff who shall serve a responsive statement as to the damages sought within thirty days thereafter. If no response is served within the thirty days, the party defendant requesting the statement may petition the court in which the action is pending to order the plaintiff to serve a responsive statement.

(b) Notwithstanding any other provision of law, absent privity of contract, no plaintiff who files a medical professional liability action against a health care provider may file an independent cause of

action against any insurer of the health care provider alleging the insurer has violated the provisions of subdivision (9), section four, article eleven, chapter thirty-three of this code. Insofar as the provisions of section three, article eleven, chapter thirty-three of this code prohibit the conduct defined in subdivision (9), section four, article eleven, chapter thirty-three of this code, no plaintiff who files a medical professional liability action against a health care provider may file an independent cause of action against any insurer of the health care provider alleging the insurer has violated the provisions of said section three.

(c) No health care provider may file a cause of action against his or her insurer alleging the insurer has violated the provisions of subdivision (9), section four, article eleven, chapter thirty-three of this code until the jury has rendered a verdict in the underlying medical professional liability action or the case has otherwise been dismissed, resolved or disposed of.

(d) No action related to the prescription or dispensation of controlled substances may be maintained against a health care provider pursuant to this article by or on behalf of a person whose damages arise as a proximate result of a violation of the Uniform Controlled Substances Act, as set forth in chapter sixty-a of this code, the commission of a felony, a violent crime which is a misdemeanor, or any other state or federal law related to controlled substances: *Provided*, That an action may be maintained pursuant to this article if the plaintiff alleges and proves by a preponderance of the evidence that the health care provider dispensed or prescribed a controlled substance or substances in violation of state or federal law, and that such prescription or dispensation in violation of state or federal law was a proximate cause of the injury or death.;

And,

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

Eng. Com. Sub. for Senate Bill 7— 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 comparative fault; providing one hundred eighty days after service of process for defendant to give notice of nonparties wholly or partially at fault; providing that a plaintiff's recovery only be reduced in proportion to the percentage of fault assigned to settling parties or nonparties and not the amount of any settlement taking place before the verdict; providing when plaintiff's criminal conduct bars recovery; prohibiting recovery in civil actions when damages are suffered as a result of the commission, attempted commission, or immediate flight from the commission or attempted commission of a felony; requiring commission, attempted commission, or immediate flight from the commission or attempted commission of a felony be proximate cause of injury; providing that the burden of proof for establishing a criminal conduct defense is upon the person asserting such defense; providing that a court shall dismiss an action upon determination that, as a matter of law, the felonious conduct upon which there was a conviction, guilty plea or plea of no contest was a proximate cause of injury; defining damages; providing for stay of civil action in which criminal conduct defense is asserted during pendency, including appeals, of criminal action; establishing that the 2016 amendments apply to all causes of action accruing on or after the effective date of those amendments; prohibiting civil action under Medical Professional Liability Act related to prescription or dispensation of controlled substances when person's damages are a proximate result of the commission of a felony, a violent crime that is a misdemeanor, or violation of any law related to controlled substances; providing exception if health care provider that prescribes or dispenses controlled substances in violation of law proximately causing injury.

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

Engrossed Committee Substitute for Senate Bill 7, 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, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 7) passed with its House of Delegates amended title.

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

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

The Senate again proceeded to the third order of business.

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

Eng. Com. Sub. for Senate Bill 146, Establishing instruction standards for early childhood education.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 387, Shared animal ownership agreements to consume raw milk.

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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

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:

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

ARTICLE 10. AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS SAFETY ACT.

§21-10-6. Permits; application; annual inspection.

No operator or owner may knowingly permit the operation of an amusement ride or amusement attraction without a permit issued by the division. Each year, and at least fifteen days before the first time the amusement ride or amusement attraction is made available in this state for public use, an operator or owner shall apply for a permit to the division on a form furnished by the division and containing any information the division may require. The division shall, upon application and within ~~ten~~ thirty days of the first time the ride or attraction is made available in this state for public use,

inspect all amusement rides and amusement attractions. The division shall inspect all stationary rides and attractions at least once every year. The division shall create an inspection checklist and provide it to owners and operators of amusement rides and amusement attractions. The owner or operator shall inspect all mobile amusement rides and amusement attractions each time they are assembled for use in this state and complete a copy of the inspection checklist provided by the division and must be available at the site for the division to inspect and review for the duration of the amusement ride or amusement attraction's use. The inspection may be performed by a certified inspector the division or the owner or operator as attested to on the inspection checklist. The owner or operator shall submit all completed inspection checklists to the division by December 31 of each year. The division may inspect all mobile amusement rides and amusement attractions each time they are disassembled and reassembled for use in this state. The division may conduct inspections at any reasonable time without prior notice: *Provided*, That in lieu of performing its own inspection the division may accept inspection reports from special inspectors certified by the division.;

And,

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

Eng. Senate Bill No. 509—A Bill to amend and reenact §21-10-6 of the Code of West Virginia, 1931, as amended, relating to when Division of Labor must inspect amusement rides and amusement attractions; requiring the Division of Labor to create an inspection checklist; requiring owners or operators to self-inspect amusement rides and amusement attractions after every assembly; requiring the owner or operator to retain the checklist while the amusement ride or amusement attraction is in use; and requiring the owner or operator to submit the inspection checklist to the Division of Labor at the end of the calendar year.

On motion of Senator Carmichael, the Senate refused to concur in the foregoing House amendments to the bill (Eng. S. B. 509) and requested the House of Delegates to recede therefrom.

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

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 5, Coach Bill Stewart Exit.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Com. Sub. for Senate Concurrent Resolution 20, US Army CPL Troy Matthews Memorial Bridge.

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 2795—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §56-4-72, relating to production of medical records and medical billing records in civil actions; defining medical records and medical billing records; establishing procedures for requesting releases for medical records and medical billing records to specified health care providers; providing that all releases comply with applicable state and federal law and prohibit contact between a requester and health care provider beyond written request; providing opportunity and procedure for objections to the release of medical records and medical billing records; directing copy of requests to health care providers any records received to

be provided to the party who is the subject of the requests; providing that other lawful discovery methods not foreclosed; providing for confidential use and maintenance of medical records and medical billing records by receiving party, its attorneys, experts, consultants, agents and insurance carriers; allowing parties to agree on whether to provide copies of medical records or medical billing records to individual parties; requiring that medical records and medical billing records not be shared, provided or disseminated to other third parties not enumerated without consent; providing for confidential maintenance and use of medical records and medical billing records by insurance carriers; providing for limits on restrictions or conditions that may be imposed on insurance carriers with respect to maintenance of medical records and medical billing records; specifying that nothing in this section restricts, supersedes or enlarges rights or obligations under rule twenty-six of the West Virginia Rules of Civil Procedure; and preserving rights of a party to object to production of medical records or medical billing records.

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. Com. Sub. for House Bill 4001—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-15, relating to candidates or candidate committees for election to the office of Governor, Board of Public Works, or legislative office to disclose contributions received while the Legislature is in session; requiring timely disclosure of certain contributions from persons while the Legislature is in session; clarifying that the legislative session includes special session; requiring timely disclosure of fund-raising events, including contributions, of candidates or candidate committees for legislative office while the Legislature is in session; defining terms; imposing the same reporting requirements upon former candidates or candidate committees for legislative office who are still in office; requiring the Secretary of State to create a form for disclosure; requiring the Secretary of State to publish information on the Secretary of State's website; authorizing the Secretary of State to establish a means for electronic filing and disclosure in the alternative; and authorizing the Secretary of State to promulgate legislative and emergency rules.

Referred to the Committee on the Judiciary.

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

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

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 4360—A Bill to amend and reenact §30-2-4 the Code of West Virginia, 1931, as amended, relating to the unauthorized practice of law; increasing the criminal penalty for the unlawful practice of law; and providing that a lawyer may advertise services or hire a person to assist in advertising services as permitted by the Rules of Professional Conduct.

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. Com. Sub. for House Bill 4383—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, relating to excessive filing of false

complaints; defining terms; providing for the discretionary suspension of investigatory obligations by agencies or departments; setting forth time frames for determination of excessive false complaints; limiting the time frame investigatory obligations may be suspended; providing for exceptions in the agency's or department's sole discretion; providing for written notice of determinations that a complaint was a false complaint; providing that a copy of this article accompany notices; providing for exceptions to this article for emergency investigations and the West Virginia State Police; providing for civil actions; establishing burden of proof and remedies for civil actions; and preserving other available remedies of an agency or department.

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. Com. Sub. for House Bill 4388—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §16-5B-18, relating to designating certain hospitals as stroke centers; designating based upon certain criteria; establishing protocols; setting forth reporting requirements; establishing protocols; creating an advisory committee and permitting rulemaking.

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 4470—A Bill to amend and reenact §16-22-3 of the Code of West Virginia, 1931, relating to the expansion of newborn testing to include Adrenoleukodystrophy.

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 4489—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.

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 4606—A Bill to amend and reenact §6B-2-5 of the Code of West Virginia, 1931, as amended, relating to prohibited interests in public contracts and appropriations of monies under the Ethics Act; prohibiting elected or appointed mayors of a municipality or members of a municipality's governing body or council from being employed by the municipality in which they serve; and requiring public officials, except members of the Legislature, to recuse themselves from voting on the appropriation of moneys or award of contract to a nonprofit corporation if the public official or an immediate family member is employed by or an officer or board member of the nonprofit, whether compensated or not.

Referred to the Committee on the Judiciary.

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

Com. Sub. for House Concurrent Resolution 5—Requesting the Division of Highways to name bridge number 13-64-179.36 EB and WB (13A165, 13A166) (37.79163, -80.29291), locally known as Mountain Avenue Bridge, carrying Interstate 64 over Tuckahoe Run and CR 50 in Greenbrier County, the "U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 7—Requesting the Division of Highways to name the bridge on Interstate 64 over Kilgore Creek Road, specifically Bridge Number 0-064/00-28.67 in Cabell County, the "U.S. Army PFC Cecil Ray Ball Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 10—Requesting the Division of Highways to name a portion of Route 119/91 from Mud Fork Road to County Route 73 in Logan County, the "U.S. Marine Corps GySgt Lionel Collins Memorial Road".

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 15—Requesting the Division of Highways to name bridge numbers 20-79-15.46, northbound and southbound (20A510 and 20A511), latitude 38.50136, longitude -81.41475, locally known as I-79 Wills Creek Overpass 2674 Bridges Northbound and Southbound, carrying Interstate 79 over County Route 53 and Wills Creek in Kanawha County, as the “U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 17—Requesting the Division of Highways name Greenville Road Bridge, located in Logan County near the town of Man which traverses Rock House Creek, the “SGT Larry Joseph Whitt Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 18—Requesting the Division of Highways to name a section of road on State Route 10 running through Man, Logan County from the intersection of State Route 10 and State Route 80 to the intersection of State Route 10 and County Route 16, the “U.S. Air Force Staff Sergeant William Henry ‘Bill’ Whitman Memorial Highway.”

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 41—Requesting the Division of Highways to name the twin bridges on Interstate 79, over County Route 24 in Harrison County, Bridge Number 17-79-121.32 NB-SB (17A316 and 17A317), latitude 39.30697, longitude -80.27468, locally known as the Meadowbrook Road Overpass, the “U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 60—Requesting that the Joint Committee on Government and Finance study the state-level background check process for new employees and volunteers of caregiving businesses and facilities.

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

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

House Concurrent Resolution 68—Urging the United States Environmental Protection Agency not to prohibit conversion of vehicles to race cars.

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

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 23rd day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. No. 4148), Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

(Com. Sub. for H. B. 4158), Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act.

(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.

And,

(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.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
John B. McCuskey,
Chair, House Committee.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 24th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 309), Relating to child-care center licensing and exempting county parks and recreation from licensure.

And,

(H. B. 4161), Relating to levies on classifications of property by the Board of Public Works.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
John B. McCuskey,
Chair, House Committee.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 116 (originating in the Committee on Finance), Increasing number of limited video lottery terminals allowed at retail location.

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

Com. Sub. for Com. Sub. for Senate Bill 116 (originating in the Committee on Finance)—A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended, relating to increasing number of limited video lottery terminals allowed at retail locations; requiring Lottery Commission to conduct bid only open to current permit holders prior to September 1, 2016, for permits expiring June 30, 2021; and establishing procedure for bid process.

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

Respectfully submitted,

Mike Hall,
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 392, Transferring Cedar Lakes Camp from Board of Education to Department of Agriculture.

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

Com. Sub. for Senate Bill 392 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-16b, relating to transferring Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture; providing that employees are will and pleasure employees and are exempt from classified service; and transferring Cedar Lakes Camp and Conference Center employee pensions from the Teachers Retirement System Trust Fund into the Public Employees Retirement System Trust Fund.

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,

Craig Blair,
Chair.

The bill (Com. Sub. for S. B. 392), 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 411, Creating Second Chance for Employment Act.

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

Com. Sub. for Senate Bill 411 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to creating the West Virginia Second Chance for Employment Act; defining terms; expanding eligibility for criminal

expungement to persons convicted of certain nonviolent felonies; defining “nonviolent felony”; providing exclusions to eligibility; establishing timing for filing a petition for expungement; creating petition requirements and court procedure for evaluating preliminary and final orders of expungement for nonviolent felonies; providing for preliminary orders of expungement; requiring a ten-year period under a preliminary expungement order of expungement for a felony before one may obtain a final order of expungement; clarifying disclosure requirements with respect to the information sealed pursuant to an order of expungement, including exemptions; providing standard for inspection of sealed records; and making technical changes.

And,

Senate Bill 468, Allowing lender to charge and receive interest on rescindable loan during rescission period.

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

Com. Sub. for Senate Bill 468 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-6K-3 of the Code of West Virginia, 1931, as amended, relating to allowing the accrual of interest during the rescission period on a loan where a right of rescission applies if the loan is not rescinded; and providing an exclusion to the charging and payment of interest.

With the recommendation that the two committee substitutes do pass.

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 421, Terminating behavioral health severance and business privilege tax.

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

Com. Sub. for Senate Bill 421 (originating in the Committee on Finance)—A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-9i of said code, all relating to the termination of the behavioral health severance and business privilege tax; specifying the effective date of the termination; establishing the method of payment of outstanding refund claims; generating a replacement revenue stream by changing the durable medical goods sales tax exemption to home users only; specifying the effective dates of this amendment; providing the method to claim this exemption; and providing definitions for clarification.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Education has had under consideration

Senate Bill 452, Revising school aid formula.

And reports the same back without recommendation as to passage; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Dave Sypolt,
Chair.

Senator Unger moved that the report from the Committee on Education for Senate Bill 452 be rejected.

Following discussion,

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

The roll being taken, 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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Unger's aforesaid motion had prevailed.

Whereupon, the President declared the report from the Committee on Education for Senate Bill 452 was not received.

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

Your Committee on Finance 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.

Respectfully submitted,

Mike Hall,
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 461, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act.

And has amended same.

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

Respectfully submitted,

Craig Blair,
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 494, Creating Legislative Oversight Commission on Department of Transportation Accountability.

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 Government Organization.

Respectfully submitted,

Chris Walters,
Chair.

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

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

Your Committee on Finance has had under consideration

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

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

Respectfully submitted,

Mike Hall,
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 619, 2016 Regulatory Reform Act.

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

Com. Sub. for Senate Bill 619 (originating in the Committee on Government Organization)—A Bill to amend and reenact §29A-3-5 and §29A-3-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §29A-3-19 and §29A-3-20; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating to legislative rulemaking; requiring agencies respond to public comments during the rule-making process; requiring five-year expiration provisions in all future rules promulgated by executive agencies and higher education, but with provided exceptions; requiring expiration provisions in all future modifications of rules affecting agencies and higher education, but with provided exceptions; providing that any rule containing an expiration provision shall remain in effect after the expiration date and until the rule is modified or repealed; 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 rules 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; requiring all executive branch agencies to review and evaluate all rules, guidelines, policies and recommendations with any federal counterparts and determine if the state's rules, guidelines, policies and recommendations are more stringent; and 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 submit a report to the Legislative Rule-Making Review Committee.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
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 627, Permitting physician to decline prescribing controlled substance.

And reports the same back with the recommendation that it 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 634, Creating WV Second Chance Driver's License Act.

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

Com. Sub. for Senate Bill 634 (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 §17B-7-1, §17B-7-2, §17B-7-3, §17B-7-4, §17B-7-5, §17B-7-6, §17B-7-7, §17B-7-8, §17B-7-9 and §17B-7-10, all relating to creating the Second Chance Driver's License Act; creating short title; setting forth legislative findings and purpose; defining terms; establishing program; directing the Director of the Division of Justice and Community Services to administer the program; setting eligibility requirements to become program participant; requiring application from person wishing to participate; directing director to coordinate with officials from courts and commissioner to verify total amount of unpaid court costs; setting deadlines for provision of information regarding unpaid court costs to director; directing how unreported court costs are to be handled; requiring notification to applicant of acceptance into program; directing director to develop consolidated repayment schedule for

participant; setting requirements for consolidated repayment schedule; permitting modification of consolidated repayment schedule; permitting hardship waiver; clarifying that participant is under no obligation to make separate or additional payments directly to court if those costs are included in consolidated repayment schedule; establishing a moratorium on the collection of unpaid court fees by a court or its designee while a participant is in good standing with the program; requiring monthly remittance of payments to director; directing issuance of certificate of compliance, certificate of noncompliance, program removal notice and program completion certificate under certain conditions; directing Division of Motor Vehicles to place stay or lift stay on suspension or revocation of participant's driver's license under certain conditions; permitting Division of Motor Vehicles to require retesting under certain circumstances; exempting participants from certain retesting fees and reinstatement fees; creating Second Chance Driver's License Program Account; providing for administration of account; directing deposit of funds into account; authorizing expenditure of funds from account for certain purposes; requiring the Division of Justice and Community Services to collect and distribute unpaid court costs on a pro rata basis; and providing legislative and emergency rule-making authority.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Education has had under consideration

Senate Bill 642, Relating to temporary higher education classified employees annual salary schedule.

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

Com. Sub. for Senate Bill 642 (originating in the Committee on Education)—A Bill to amend and reenact §18B-9-3 of the Code of West Virginia, 1931, as amended, relating to the temporary higher education classified employees annual salary schedule; providing that when developed and adopted by the Higher Education Policy Commission and the Council for Community and Technical College Education, a new salary structure will replace the schedule that currently exists for higher education classified employees; providing that any provision of law in conflict with the new salary structure is null and void; requiring the commission and council to recommend legislation in 2017 to enact the new salary structure into law; and requiring prior to adoption of the new structure the commission and council must seek comments from affected constituents.

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,

Dave Sypolt,
Chair.

The bill (Com. Sub. for S. B. 642), 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 Concurrent Resolution 30, Lester W. and Ida C. Ellis Memorial Bridge.

Senate Concurrent Resolution 31, US Air Force Staff Sgt Bethel Howard McNeely and US Marine Staff Sgt Clyde Elmo Bryant Bridge.

Senate Concurrent Resolution 32, CW2 Robert D. Taylor Memorial Bridge.

Senate Concurrent Resolution 36, US Army SPC5 Joseph Richard "Rick" Schafer Memorial Bridge.

Com. Sub. for House Concurrent Resolution 2, U.S. Army PV2 William Frederick Kump Memorial Bridge.

Com. Sub. for House Concurrent Resolution 14, Second Friday in July as West Virginia Collector Car Appreciation Day.

And,

Com. Sub. for House Concurrent Resolution 19, H. Laban White 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. 30, 31, 32 and 36 and Com. Sub. for H. C. R. 2, 14 and 19) 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 Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4163, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

And has amended same.

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

Respectfully submitted,

Craig Blair,
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

Eng. Com. Sub. for House Bill 4188, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

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.

The Senate proceeded to the sixth order of business.

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

Senate Concurrent Resolution 44—Requesting Division of Highways name bridge number 10-15-10.14 (10A039) (37.98063, -81.29932), locally known as the Turnpike Bridge, carrying County Route 15 over I-77 NBL and SBL in Fayette County, West Virginia, the “U. S. Marine Corps SGT Mike Plasha Memorial Bridge”.

Whereas, SGT Mike Plasha was born March 14, 1925, in the coal mining town of Kingston, West Virginia. He was the son of East European immigrants George and Anna Plasha and had five brothers and one sister. His Yugoslavian father was a miner for the Kingston Pocahontas Coal Company; and

Whereas, As a student at Kingston High School, SGT Mike Plasha was considered a star athlete and lettered in football and basketball, but he wanted to enter the military after the war began, hoping to return after the war and eventually become an athletic coach; and

Whereas, SGT Mike Plasha entered the Marine Corps on August 18, 1942. He was first stationed at Camp Lejeune and later Camp Pendleton and then served in the Pacific theater in the 2nd Battalion, 25th Marines, 4th Marine Division; and

Whereas, During the invasion of Ennubirr Island, one of the Marshall Islands, on January 31, 1944, then CPL Plasha pushed ahead with his rifle, killing several Japanese soldiers and urged the Marine forces forward. For his actions, SGT Plasha was awarded the Silver Star; and

Whereas, SGT Mike Plasha’s Silver Star Award reads, “Awarded for actions during the World War II: The President of the United States of America takes pride in presenting the Silver Star (Posthumously) to CPL Mike Plasha (MCSN: 444727), United States Marine Corps, for conspicuous gallantry and intrepidity while serving with Company F, Second Battalion, Twenty-fifth Marines, FOURTH Marine Division in action against enemy Japanese forces during the invasion of Ennubirr Island, Kwajalein Atoll on 31 January 1944. Realizing upon landing that his machine guns were masked by friendly troops and so of no value in the action, CPL Plasha immediately left his guns with a squad leader and pushed forward alone. With complete disregard for his own safety he took the enemy under fire with his rifle accounting for approximately five Japanese. Noting that the assault rifle troops were moving too slowly he personally led these Marines urging them forward and causing the enemy to fall back. His daring aggressiveness, heroic devotion to duty and intelligent analysis of

a critical situation reflected the highest credit upon CPL Plasha and the United States Naval Service”; and

Whereas, Five months later, on June 16, 1944, SGT Mike Plasha, now a Sergeant, again displayed “conspicuous gallantry” during action on Saipan in the Marianas. For this action, he was awarded a Gold Star; and

Whereas, SGT Mike Plasha’s Gold Star Award reads: “The President of the United States takes pride in presenting the GOLD STAR in lieu of a second SILVER STAR MEDAL posthumously to SGT MIKE PLASHA, UNITED STATES MARINE CORPS RESERVE for services as set forth in the following: CITATION: ‘For conspicuous gallantry and intrepidity as Leader of a Machine-Gun Section serving with the Second Battalion, Twenty-Fifth Marines, Fourth Marine Division, during action against enemy Japanese forces at Saipan, Marianas Islands, on 16 June 1944. In courageous defiance of heavy, enemy mortar and artillery fire, SGT Plasha valiantly led a section of the attack to exposed positions in order to bring fire to bear on strongly fortified enemy gun positions and pillboxes which had resisted the tank-led efforts of an entire battalion for over a day. Persistently firing and throwing hand grenades, he continued to press the attack until extremely heavy casualties forced the withdrawal of our men, later returning to the ridge to assist in the evacuation of the wounded. His daring spirit of aggressiveness and cool determination under intense hostile fire reflect the highest credit upon SGT Plasha and the United States Naval Service.’ For the President, Secretary of the Navy”; and

Whereas, SGT Mike Plasha was killed on July 10, 1944, while attempting to rescue a fellow Marine in the Battle of Saipan. He was posthumously awarded the Bronze Star. His body is buried at Highland Park Cemetery in Fayette County; and

Whereas, SGT Mike Plasha’s Bronze Star Medal reads: “The President of the United States takes pride in presenting the BRONZE STAR MEDAL posthumously to SGT MIKE PLASHA, UNITED STATES MARINE CORPS RESERVE, for service as set forth in the following

CITATION: ‘For heroic service as Leader of a Machine-Gun Section serving with the Second Battalion, Twenty-Fifth Marines, Fourth Marine Division, during action against enemy Japanese forces at Saipan, Marianas Islands, on 10 July 1944. Risking his life to rescue a Marine who had been shot at close range by a Japanese sniper, SGT Plasha unhesitatingly ran forward to the area where the man lay exposed to enemy fire but was himself mortally wounded before he could fulfill his voluntary and hazardous mission. His outstanding courage in the face of danger and his valiant spirit of self-sacrifice were in keeping with the highest traditions of the United States Naval Service. He gallantly gave his life for another.’ For the President, Secretary of the Navy”; and

Whereas, It was said that SGT Mike Plasha became something of a hero to the boys in the Twenty-fifth Regiment. Recollection of the Early Years, by Frank S. Craig, Jr., contains a tribute to SGT Plasha, and he is memorialized in a poem written by Carl Dearborn. Both men served with him. “So many of us, of ‘F’ Company, owe so much to Sgt. Mike Plasha. A very brave Marine who would have gone far in life,” Dearborn later wrote SGT Mike Plasha’s brother, Tom; and

Whereas, It is fitting that an enduring structure commemorate United States Marine Corps SGT Mike Plasha’s service to his country during World War II in having made the ultimate sacrifice for his country, his state and his fellow Marines; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 10-15-10.14 (10A039) (37.98063, -81.29932), locally known as the Turnpike Bridge, carrying County Route 15 over I-77 NBL and SBL in Fayette County, West Virginia, the “U. S. Marine Corps SGT Mike Plasha Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Marine Corps SGT Mike Plasha Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the family of SGT Mike Plasha.

Which, under the rules, lies over one day.

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

Senate Concurrent Resolution 45—Requesting Division of Highways name bridge in Putnam County, bridge number 40-35-9.68 (40A157) northbound and bridge number 40-35-9.68 (40A158) southbound, on Route 35 crossing over 5 and 20 Creek Road, 1.17 miles north of CR 19, the “U. S. Army SGT Deforest Lee Talbert Memorial Bridge”.

Whereas, SGT Deforest Lee Talbert was born January 24, 1982, in Alexandria, Virginia, the son of Gloria Nesbitt and Benjamin Dickens. He graduated from T. C. Williams High School. He moved to West Virginia to attend West Virginia State University where he majored in communications. He enlisted in the West Virginia Army National Guard at Dunbar, West Virginia, and was assigned to Bravo Company 1/150 AR in 2001; and

Whereas, SGT Deforest Lee Talbert was mobilized as part of Operation Iraqi Freedom on October 1, 2003, and was reassigned to Charlie Company 1/150 AR. His company was deployed to the Iraqi Theater of Operations along with the 1-150th Armor Battalion and the 30th Brigade Team on February 29, 2004. He served as an assistant gunner with the First Platoon, Charlie 12 gun truck. While patrolling on the evening of July 27, 2004, SGT Talbert’s convoy was the target of an enemy attack using an improvised explosive device. Three of his fellow soldiers were injured, but SGT Talbert absorbed the brunt of the explosion and was instantly killed. SGT Deforest Lee Talbert received the Army Service Ribbon, the Sharpshooter Marksmanship Badge (Pistol), the Expert Marksmanship Badge (Grenade), SSI/FWS for the 30th Brigade Combat Team and the 1st Infantry Division and, posthumously, a Purple Heart and a Bronze Star with V Device; and

Whereas, SGT Deforest Lee Talbert made the ultimate sacrifice for his country and in doing so represented West Virginia and his country with the highest levels of honor and courage and his sacrifice should not go unnoticed. Naming this bridge in Putnam County for him is an appropriate recognition of his ultimate sacrifice for state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge in Putnam County, bridge number 40-35-9.68(40A157) northbound and bridge number 40-35-9.68(40A158) southbound, on Route 35 crossing over 5 and 20 Creek Road, 1.17 miles north of CR 19, the “U. S. Army SGT Deforest Lee Talbert Memorial Bridge”; and, be it

Further Resolved That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army SGT Deforest Lee Talbert 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 Secretary of the Department of Transportation and the surviving family members of SGT Deforest Lee Talbert: Mother, Gloria Nesbitt; father, Benjamin Dickens; sisters, Tawanna Talbert-Loving, Latasha Marble and Chiquita Talbert; brother, James Talbert; and his devoted friend, Frances Hamlet.

Which, under the rules, lies over one day.

Senators Boso and Karnes offered the following resolution:

Senate Concurrent Resolution 46—Requesting the United States General Services Administration resolve to support the KVC Health Systems, Inc., plan to reuse the Navy Information Operations Command (NIOC) Sugar Grove Support Facility for the purposes of establishing a specialized education enrichment facility primarily targeted toward foster care children.

Whereas, The Legislature recognizes that the Navy Information Operations Command Sugar Grove Support Facility closed on September 30, 2015; and

Whereas, This facility is being offered to eligible organizations through the General Services Administration real property disposal process; and

Whereas, Thirty thousand young adults age out of foster care each year; and

Whereas, Only two percent of those young adults who age out graduate from college; and

Whereas, These young adults are at high risk of becoming homeless, unemployed, incarcerated, victimized or unexpectedly pregnant and, in all such cases, dependent on continued public assistance without the appropriate supports and opportunities; and

Whereas, There is a compelling need for real solutions to this social problem; and

Whereas, KVC Health Systems, Inc., has proposed a plan for reuse of the NIOC Sugar Grove Support Facility to establish a specialized education enrichment facility primarily targeted toward foster care children; and

Whereas, The Legislature is not aware of any other organization with viable plans for reuse of the facility at Sugar Grove; and

Whereas, KVC Health Systems, Inc., is a §501(c)(3) organization based in Olathe, Kansas, with a subsidiary organization in West Virginia providing foster care services and related services; and

Whereas, KVC Health Systems is a national leader in delivery of foster care, adoption services and related mental and behavioral health supports; and

Whereas, KVC Health Systems has consistently reported revenues in excess of \$100 million annually, demonstrating sufficient organizational resources capable of managing and maintaining a project of this magnitude; and

Whereas, No facility of this nature exists in the nation; and

Whereas, The State of West Virginia has an opportunity to collaborate with KVC Health Systems, Inc., to effect positive outcomes for these young adults; and

Whereas, Establishment of a specialized education enrichment facility promotes economic growth in the state; and

Whereas, The plans of KVC Health Systems, Inc., for reuse have been endorsed by the Pendleton County Commission, Pendleton County Economic Development Authority, the West Virginia Secretary of Health and Human Services and the Governor of West Virginia; and

Whereas, Continuing growth and development of West Virginia's economy is of major concern to all our citizens, as is the well-being of our young people; and

Whereas, This is a unique opportunity to foster the promotion of both of those objectives through the establishment of the nation's first specialized education enrichment facility designed for young adults aging out of foster care; therefore, be it

Resolved by the Legislature of West Virginia:

That the United States General Services Administration is hereby requested to support the KVC Health Systems, Inc., plan to repurpose the Navy Information Operations Command Sugar Grove Support Facility, disposing of the Command's real property to the KVC Health Systems, Inc., for the purpose of extending foster care services to more children of West Virginia; and, be it

Further Resolved, That the West Virginia Legislature provides its full endorsement of the KVC Health Systems, Inc., plan for reuse of the Sugar Grove facility.

Which, under the rules, lies over one day.

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

Senate Concurrent Resolution 47—Requesting Division of Highways name bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the "West Virginia State Police SGT Harold E. Dailey Bridge".

Whereas, Harold E. Dailey was born on August 3, 1938, in Logan, West Virginia. He graduated from Logan High school in 1957, where he was an all-state baseball pitcher for the Wildcats. After a stint in the U. S. Army, he joined the West Virginia State Police on August 2, 1968, and served until February 25, 1994, when he retired as the Quincy Detachment Commander. He served eastern Kanawha County from detachments in Chelyan, Glasgow and Quincy for much of his career, with stints out of the South Charleston and Cross Lanes detachments as well. Harold E. Dailey lived in the Witcher Creek/Belle area for much of his career, while also living in Malden and Burning Springs during his service time with the State Police; and

Whereas, Harold E. Dailey served the State of West Virginia as a State Trooper for 26 years, his country in the U. S. Army for two years and continues to serve the state as a part-time security officer for the West Virginia Supreme Court; and

Whereas, Naming the bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the "West Virginia State Police SGT Harold E. Dailey Bridge" is an appropriate recognition of his contribution 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 number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the "West Virginia State Police SGT Harold E. Dailey Bridge"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the "West Virginia State Police SGT Harold E. Dailey Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is directed to forward a copy of this resolution to the Secretary of the Department of Transportation and SGT Harold E. Dailey.

Which, under the rules, lies over one day.

Senators Palumbo, Takubo, Walters, Gaunch, Williams, Stollings, Unger and Plymale offered the following resolution:

Senate Resolution 50—Congratulating the Charleston Catholic High School girls' soccer team for winning the 2015 AA/A State Soccer Championship.

Whereas, The Charleston Catholic High School girls' soccer team had a dominant year, finishing with a record of 21-1-1, including going undefeated against West Virginia schools, on their way to winning the 2015 AA/A State Soccer Championship; and

Whereas, The Charleston Catholic High School girls' soccer team is led by head coach, Amy Mullen, who was named the 2015 West Virginia Soccer Coaches Association's Coach of the Year, and is assisted by coaches Kevin Carr and Kellianne Haden; trainer, Colleen Hoyer; and statistician, Toney Bumgarner; and

Whereas, The Charleston Catholic High School girls' soccer team roster consists of players: Caroline Dundervill, Payton Mullen, Sophie Bumgarner, Jada Bohn, Amanda George, Peyton Keener, Alexa White, Madeline Blaydes, Sydney Moore, Mia Casingal, Vida Imani, Jordan Keener, Sara Carr, Kelly Krietzer, Francesca George, Anna Hewitt, Jenna Jordan, Isabella Paternostro, Mills Mullen, Sarrah George and Racheal Saldanha; and

Whereas, The 2015 Charleston Catholic High School girls' soccer team displayed their talent and strong will for an entire season and is a shining example of what can be accomplished with teamwork, dedication and spirit; and

Whereas, The 2015 Charleston Catholic High School girls' soccer team won the school's second consecutive state championship and will be remembered as one of the best soccer teams in West Virginia history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Charleston Catholic High School girls' soccer team for winning the 2015 AA/A State Soccer Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Charleston Catholic High School girls' soccer team.

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

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

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

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

Senate Resolution 51—Congratulating the Cabell Midland High School boys' cross country team for winning the 2015 Class AAA State Championship.

Whereas, The Cabell Midland boys' cross country team had an extraordinary season in route to winning the 2015 Class AAA State Championship; and

Whereas, The Cabell Midland High School boys' cross country team is coached by Chris Parsons and assistant coaches Rhonda Short and Rachel Stewart; and

Whereas, The Cabell Midland High School boys' cross country team consists of members Mason Bills, Danny Jarrell, Jonathan Merryweather, Michael Otte, Jeremiah Parlock, Nick Salmons, Will Sheils, Andrew Short, Adam Whitmore, David Ball, Salem Carlton, Alex Farmer, Jonathan Hathaway, Austin Jordan, George McPhail, Coy Smith, Evan Fleshman, Aaron Frost, Josh Minor, Devin Nease, Stephen Woolums, Brett Armbruster, Steven Ball, Maguire Beever, Ian Carlton, Tanner Chapman, Nick Harmon, K.J. Helgason, Dillon Jobe, Bryce Morris, Ben Norton, Tyler Straub and Gabe Tomblin; and

Whereas, The Cabell Midland High School boys' cross country team displayed its strong will and determination for an entire season and is a shining example of what can be accomplished with hard work, dedication and spirit; and

Whereas, The Cabell Midland High School boys' cross country team went undefeated against West Virginia competition, on their way to winning the school's ninth state championship, and will be remembered as one of the best teams ever assembled in West Virginia high school cross country history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Cabell Midland High School boys' cross country team for winning the 2015 Class AAA State Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Cabell Midland High School boys' cross country team.

At the request of Senator Plymale, 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, without objection, returned to the third order of business.

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

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

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

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

On page eight, section four, after subsection (q), by adding thereto a new subsection, designated subsection (r), to read as follows:

(r) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application.;

And by relettering the remaining subsection;

And,

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

Eng. Com. Sub. for House Bill 4145—A Bill to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4, §61-7-6, §61-7-7 and §61-7-11a of said code; and to amend said code by adding thereto three new sections, designated §61-7-4a and §61-7-15a and §61-7-17, all relating to the carrying of firearms and deadly weapons generally; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization apply only to persons under twenty-one years of age and prohibited persons; requiring an applicant for a concealed weapon permit be a United States citizen or legal resident thereof, a resident of this state and of the county in which application is made; requiring training courses in handling and firing a handgun to include the actual live firing of ammunition; requiring certificates of completion of a training course which are submitted with license applications include the instructor's name, signature and NRA or state instructor identification number; requiring that on or after January 1, 2017, all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties and feature a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs' Bureau of Professional Standards, prepare uniform applications for licenses and license cards; entitling a person who pays fees for training or application after the effective date to a tax credit equal to the amount actually paid for training not to exceed \$50, unless such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application; establishing a provisional license to carry concealed deadly weapons for persons at least eighteen years of age and less than twenty-one years of age; establishing provisional license application requirements and procedures; providing for exceptions as to prohibitions against carrying handguns concealed for persons at least eighteen years of age and fewer than twenty-one years of age; providing for any United States citizen or legal resident thereof at least twenty-one years of age and not otherwise prohibited from possessing a firearm may carry a concealed deadly weapon without a license; creating felony offenses for any persons prohibited from possessing firearms who carry concealed firearms and providing for criminal penalties; providing that it shall not be unlawful to possess a firearm in or on a private primary or secondary education building, structure or facility when such institution has adopted written policies allowing for possession of firearms; exempting probation officers from prohibition against possessing firearms on premises of educational facilities; requiring a school principal to report certain violations to the State Police; creating felony offense for persons using or presenting a firearm while engaged in the commission of a felony and providing for criminal penalties; and providing for construction of article.

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

Engrossed Committee Substitute for House Bill No. 4145, as amended, was then put upon its passage.

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

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

Absent: Yost—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 4145) passed with its House of Delegates amended title.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 252, Amending Wiretapping and Electronic Surveillance Act excluding from protection oral communications.

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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 252) 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 274, Relating to increasing civil jurisdictional amount in magistrate courts.

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

On the passage of the bill, the yeas were: Ashley, 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 and Cole (Mr. President)—31.

The nays were: Beach and Woelfel—2.

Absent: Yost—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. 274) 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 291, Law enforcement use of unmanned aircraft systems.

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

The nays were: Miller—1.

Absent: Yost—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. 291) 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 376, Expanding authority of Secretary of State and State Police.

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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 376) 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 416, Allowing terminally ill patients access to investigational products.

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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 416) 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 438, Requiring DHHR be present at judicial proceedings.

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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 438) 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 474, Exempting DEP construction and reclamation contracts from review and approval.

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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 474) 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 575, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services.

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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 575) 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 592, Relating to pipeline safety.

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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 592) 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 621, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage.

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 and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 621) passed with its title.

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

The Senate proceeded to the ninth order of business.

Senate Bill 94, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program.

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

Senate Bill 476, Relating to driving restrictions in school zones.

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

Eng. Com. Sub. for House Bill 3019, Requiring official business and records of the state and its political subdivisions be conducted in English.

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 Senate Bill 106, Waiver of warranty on sale of used manufactured home under certain circumstances.

Com. Sub. for Senate Bill 525, Relating to WV Insurance Guaranty Association Act.

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

Com. Sub. for Senate Bill 593, Clarifying disqualification from unemployment benefits.

Senate Bill 613, Defining total capital for purposes of calculating state-chartered bank's lending limit.

And,

Eng. Com. Sub. for House Bill 2511, Health Care Sharing Ministries Freedom to Share Act.

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

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate recessed until 5:30 p.m. today.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

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

Your Committee on Economic Development has had under consideration

Senate Bill 325, Developing matching grant to foster development of creative communities.

And,

Senate Bill 618, Allowing Economic Development Authority to make loans to certain whitewater outfitters.

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

Respectfully submitted,

Tom Takubo,
Chair.

Senate Bill 325, under the original double committee reference, was then referred to the Committee on Finance.

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 Senate Bill 618 contained in the foregoing report from the Committee on Economic Development.

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 344, Clarifying composition and chairmanship of Commission on Special Investigations.

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

Com. Sub. for Senate Bill 344 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, §4-5-5 and §4-5-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to Commission on Special Investigations; clarifying composition and chairmanship of commission; redefining what constitutes a quorum for voting procedures of commission; clarifying contents of commission's annual report; listing existing and necessary commission staff positions; defining a person or federal or state agency's duty to cooperate with commission during investigations and requiring persons and agencies to disclose information and documents to commission; establishing requirements for commission to enter into executive session; establishing procedures for conducting executive session; removing requirement that Joint Committee on Government and Finance approve expenses of commission; establishing procedure for commission retention and disposal of records; defining new felony offense of making false statement to commission; setting penalties for making false statement to commission; defining new felony offense of impersonating a commission member or staff member; setting penalties for impersonating a commission member or staff member; allowing the Commission award duty weapons to certain members on retirement; and disposal of surplus weapons.

And,

Senate Bill 542, Admissibility of certain evidence in civil action on use or nonuse of safety belt.

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

Com. Sub. for Senate Bill 542 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating generally to admissibility of certain evidence in a civil action for damages; allowing the admission of the nonuse of an adult motor vehicle occupant's safety belt in violation of law on the issue of failure to mitigate damages; subjecting that evidentiary issue to the West Virginia Rules of Evidence; prohibiting admission of evidence of failure to wear a safety belt for comparative negligence purposes; providing for admission of evidence related to failure to wear a safety belt for issue of mitigation of damages under certain circumstances; requiring expert evidence showing the failure to wear a safety belt in violation of this section be relevant to injuries or damages of the plaintiff; permitting the trier of fact to reduce the amount of plaintiff's recovery attributable to the failure to wear a seatbelt after reductions for comparative negligence; limiting the percentage of reduction of medical expenses for an adult vehicle occupant's failure to wear a safety belt in violation of this section to fifty percent; and clarifying that nothing in the applicable subsection is intended to limit a manufacturer from introducing evidence of an adult vehicle occupant's failure to wear a safety belt in violation of this section to defend the design, manufacture or crashworthiness of a product in any action claiming damages under a product liability theory.

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 578, Protecting utility workers from crimes against person.

And reports the same back with the recommendation that it 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 631, Authorizing higher education boards of governors develop retirement and incentive packages.

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

Com. Sub. for Senate Bill 631 (originating in the Committee on Pensions)—A Bill to amend and reenact §18B-1-1d of the Code of West Virginia, 1931, as amended, relating to retirement and separation incentives.

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. 631), 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 641, Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.

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

Com. Sub. for Senate Bill 641 (originating in the Committee on Finance)—A Bill to amend and reenact §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend

and reenact §29-22-18a of said code; to amend and reenact §29-22A-7, §29-22A-8, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22A-10e of said code; and to amend and reenact §29-22C-7, §29-22C-8, §29-22C-27 and §29-22C-27a of said code, all relating to horse and dog racing and lottery; transferring certain revenues derived from racetrack video lottery and racetrack table games from the special fund established for greyhound racetrack licensees to the State Excess Lottery Revenue Fund; defunding the West Virginia Greyhound Breeding Development Fund and Licensed Racetrack Modernization Fund and transferring the money so dedicated to the State Excess Lottery Revenue Fund for appropriation by the Legislature; amending rules related to recall elections for video lottery and racetrack table games; eliminating the requirement that video lottery licensees at dog tracks must hold a racing license to renew video lottery license or racetrack table games license; and eliminating the requirement that video lottery licensees at dog tracks must hold a racing license to conduct simulcast racing.

With the recommendation that the committee substitute 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 Joint Resolution 6, WV Better Roads Amendment of 2016.

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

Com. Sub. for Senate Joint Resolution 6 (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of \$2 billion to be used for improvement and construction of state roads and bridges; establishing the authority of the Legislature to impose a levy on real property and public utility property in this state to retire the indebtedness; limiting the amount and duration of the levy to repayment of the bond indebtedness; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the committee substitute be adopted; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The resolution (Com. Sub. for S. J. R. 6), under the original double committee reference, was then referred to the Committee on Finance.

Senator Karnes, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 43, Requesting Joint Committee on Government and Finance study if economically beneficial to map, name and promote all existing unpaved trails.

And reports the same back with the recommendation that it be adopted; but under the original double committee reference first be referred to the Committee on Rules.

Respectfully submitted,

Robert Karnes,
Chair.

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

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

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 2444, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.

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

Respectfully submitted,

Tom Takubo,
Chair.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Kessler.

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Stollings, unanimous consent being granted, it was ordered that the Journal show had Senator Stollings been present in the chamber on yesterday, Tuesday, February 23, 2016, he would have voted "yea" on the passage of Engrossed Committee Substitute for Senate Bill 420, Engrossed Committee Substitute for Senate Bill 485, Engrossed Committee Substitute for Senate Bill 565 and Engrossed Committee Substitute for Senate Bill 591 and "nay" on the passage of Engrossed Committee Substitute Senate Bill 508.

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

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 25, 2016, at 11 a.m.

SENATE CALENDAR

**Thursday, February 25, 2016
11:00 AM**

UNFINISHED BUSINESS

- S. C. R. 44 - US Marine Corps SGT Mike Plasha Memorial Bridge.
- S. C. R. 45 - US Army SGT Deforest Lee Talbert Memorial Bridge.
- S. C. R. 46 - Requesting US General Services Administration support KVC Health Systems, Inc., plan to reuse Navy Information Operations Command Sugar Grove Support Facility.
- S. C. R. 47 - WV State Police SGT Harold E. Dailey Bridge.

THIRD READING

- Eng. S. B. 94 - Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program.
- Eng. S. B. 476 - Relating to driving restrictions in school zones - (Com. title amend. pending).
- Eng. Com. Sub. for H. B. 3019 - Requiring official business and records of the state and its political subdivisions be conducted in English.

SECOND READING

- Com. Sub. for S. B. 106 - Waiver of warranty on sale of used manufactured home under certain circumstances (original similar to HB4205).
- Com. Sub. for S. B. 525 - Relating to WV Insurance Guaranty Association Act.
- S. B. 538 - Relating to salaries of appointed officers fixed by Governor - (Com. title amend. pending).
- Com. Sub. for S. B. 593 - Clarifying disqualification from unemployment benefits.
- S. B. 613 - Defining total capital for purposes of calculating state-chartered bank's lending limit (original similar to HB4621).
- Eng. Com. Sub. for H. B. 2511 - Health Care Sharing Ministries Freedom to Share Act.

FIRST READING

- Com. Sub. for Com. Sub. for S. B. 116 - Increasing number of limited video lottery terminals allowed at retail location (original similar to HB4523).
- Com. Sub. for S. B. 344 - Clarifying composition and chairmanship of Commission on Special Investigations (original similar to HB4302).

Com. Sub. for S. B. 411 - Creating Second Chance for Employment Act.

Com. Sub. for S. B. 421 - Terminating behavioral health severance and business privilege tax (original similar to HB4486).

S. B. 455 - Allowing person to be both limited video lottery operator and retailer.

S. B. 461 - Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act - (Com. amend. pending) (original similar to HB4396).

Com. Sub. for S. B. 468 - Allowing lender charge and receive interest on rescindable loan during rescission period (original similar to HB4495).

Com. Sub. for S. B. 542 - Admissibility of certain evidence in civil action on use or nonuse of safety belt.

S. B. 578 - Protecting utility workers from crimes against person.

Com. Sub. for S. B. 595 - Relating to retirement credit for members of WV National Guard.

S. B. 618 - Allowing Economic Development Authority to make loans to certain whitewater outfitters (original similar to SB622).

Com. Sub. for S. B. 619 - 2016 Regulatory Reform Act.

S. B. 627 - Permitting physician to decline prescribing controlled substance.

Com. Sub. for S. B. 634 - Creating WV Second Chance Driver's License Act (original similar to HB4683).

Com. Sub. for S. B. 641 - Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.

Eng. Com. Sub. for H. B. 2444 - Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.

Eng. Com. Sub. for H. B. 4163 - Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes - (Com. amend. pending).

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

Thursday, February 25, 2016

9 a.m.	Agriculture & Rural Development	(Room 208W)
9 a.m.	Labor	(Room 208W)
9:30 a.m.	Finance	(Room 451M)
9:30 a.m.	Judiciary	(Room 208W)
1 p.m.	Energy, Industry & Mining	(Room 208W)
2 p.m.	Education	(Room 451M)
2 p.m.	Government Organization	(Room 208W)
3 p.m.	Finance	(Room 451M)
5:30 p.m.	LOCEA	(Room 451M)