

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2020
TWENTY-THIRD DAY

Charleston, West Virginia, Thursday, January 30, 2020

The Senate met at 11:08 a.m.

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

Prayer was offered by Pastor Steve Willis, First Baptist Church of Kenova, Kenova, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Rollan A. Roberts, a senator from the ninth district.

Pending the reading of the Journal of Wednesday, January 29, 2020,

At the request of Senator Baldwin, 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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 323, Authorizing Department of Administration promulgate legislative rules.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section two, line two, by striking out “§29-21-13a” and inserting in lieu thereof “§29-21-5”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 323, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 323) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 323) takes effect from passage.

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

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

Eng. Com. Sub. for House Bill 2419—A Bill to amend and reenact §62-1C-1a of the Code of West Virginia, 1931, as amended, relating to the authorization to release a person charged with a criminal violation when first appearing before a judicial officer; establishing that a judicial officer shall release a person charged with a misdemeanor offense on their own recognizance unless charged with certain offenses; establishes that in certain instances and with certain conditions the arrested person is entitled to the least restrictive bail conditions determined to be reasonably necessary to assure appearance as well as ensure safety of persons in the community and maintenance of evidence; establishing that in certain circumstances the arrested person is entitled to bail under least restrictive further conditions; identifying least restrictive further conditions; establishing considerations to determine whether to release an individual without bail, the reasonable amount of bail, or imposition of other conditions of release; establishing that in all misdemeanor cases, cash bail cannot exceed the maximum fine for the offense; and, further providing that a judicial officer may modify the conditions of release at any time.

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 2877—A Bill to amend and reenact §17C-13-6 of the Code of West Virginia, as amended, relating to parking privileges for persons with a mobility impairment; prohibiting public entities from installing or maintaining parking meters in an accessible parking space bearing the international symbol of access.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

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

Eng. House Bill 4030—A Bill to amend and reenact §8-15-17 of the Code of West Virginia, 1931, as amended, relating to increasing the age limit for an application for original appointment as a firefighter for honorably discharged veterans of the United States Armed Forces or National Guard.

Referred to the Committee on Military.

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 4094—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-9-101, §49-9-102, §49-9-103, §49-9-104, §49-9-105, §49-9-106, §49-9-107, §49-9-108, §49-9-109, and §49-9-110, all relating to the Foster Care Ombudsman Program; continuing the Foster Care Ombudsman; providing authority to the ombudsman; permitting access to foster care children; providing access to certain records; providing the ombudsman with subpoena authority; requiring government entities to cooperate with the ombudsman; requiring investigations to remain confidential; providing the ombudsman with a limitation of liability; setting forth criminal penalties; providing funding for the ombudsman.

Referred to the Select Committee on Children and Families; and then to the Committee on Finance.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 240, Relating to food service establishments securing covers for grease traps.

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

Com. Sub. for Senate Bill 240 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-6-22b; and to amend and reenact §16-6-23 of said code, all relating to requiring hotels and restaurants to secure manhole covers of certain grease traps by a certain date;

providing methods for securing the manhole covers; authorizing the commissioner to specify the method of limiting access to the manhole; authorizing the promulgation of rules; and increasing the civil penalty for noncompliance with the requirements of the article.

Senate Bill 267, Relating to criminal possession of rented or leased personal property.

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

Com. Sub. for Senate Bill 267 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3-16a, relating to creating the offenses of conversion of leased or rented personal property; establishing the elements of the offenses; creating exceptions; and establishing and setting criminal penalties.

And,

Senate Bill 308, Penalizing individuals who violate financial exploitation protective order.

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

Com. Sub. for Senate Bill 308 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-7J-6 of the Code of West Virginia, 1931, as amended, relating to creating criminal penalties for violation of orders issued for the protection of victims of financial exploitation; and establishing criminal penalties.

With the recommendation that the three 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 275, Creating Intermediate Court of Appeals.

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

Com. Sub. for Senate Bill 275 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-2D-16a; to amend said code by adding thereto a new section, designated §23-1-1h; to amend and reenact §23-5-1, §23-5-3, §23-5-5, §23-5-6, §23-5-8, §23-5-9, §23-5-10, §23-5-11, §23-5-12, §23-5-13, §23-5-15, and §23-5-16 of said code; to amend said code by adding thereto a new section, designated §23-5-8a; to amend and reenact §29A-5-4 of said code; to amend and reenact §29A-6-1 of said code; to amend and reenact §51-2A-24 of said code; to amend and reenact §51-9-1a of said code; to amend said code by adding thereto a new article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12, §51-11-13, and

§51-11-14; and to amend and reenact §58-5-1 of said code, all relating generally to the West Virginia Appellate Reorganization Act of 2020; providing that the Judicial Vacancy Advisory Commission shall assist the Governor in filling judicial vacancies in an Intermediate Court of Appeals; transferring jurisdiction over appeals of decisions of the Health Care Authority in certificate of need reviews from the Workers' Compensation Office of Administrative Judges to the Intermediate Court of Appeals; transferring jurisdiction over objections filed in workers' compensation claims from the Office of Judges to the Workers' Compensation Board of Review; terminating the Office of Judges by a certain date and transferring all powers and duties, related to objections, from the Office of Judges to the Board of Review; providing that the Insurance Commissioner shall have administrative oversight and authority over the board of review; authorizing the board of review to hire hearing examiners meeting certain qualifications and classified as attorneys; requiring the chairman of the board of review to assign a member of the board to each objection; requiring that all orders and decisions of the board of review pertaining to an objection be issued and signed by a single member of the board of review; permitting the board of review member assigned to an objection to delegate certain duties to a hearing examiner; establishing the administrative powers and duties of the board of review; increasing the limit on the annual salary of a board of review member; authorizing the board of review to promulgate rules of practice and procedure, and establishing a process therefor; establishing duties of the chairman of the board of review; providing that the administrative expenses of the board of review shall be included in annual budget of the Insurance Commissioner; providing that petitions for review of final decisions of the Workers' Compensation Board of Review must be made to the Intermediate Court of Appeals; establishing certain procedures and other requirements for appeals of board of review decisions made to the Intermediate Court of Appeals; providing that the Supreme Court of Appeals has discretion to review final decisions of the Intermediate Court of Appeals in workers' compensation claims; requiring that appeal of contested cases under the State Administrative Procedures Act be made to the Intermediate Court of Appeals; transferring jurisdiction to review family court final orders from circuit courts to the Intermediate Court of Appeals; creating an Intermediate Court of Appeals in West Virginia to be operational by a certain date; providing a short title; providing legislative findings; defining terms; establishing and defining two geographical districts of the Intermediate Court of Appeals; requiring a three-judge panel for proceedings of each district of the Intermediate Court of Appeals; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing that parties to an appeal in the Intermediate Court of Appeals shall have an opportunity for a full and meaningful review on the record of the lower tribunal and an opportunity to be heard; establishing a procedure by which parties to an appeal in the Intermediate Court of Appeals may file a motion for direct review of an appeal by the Supreme Court of Appeals in extraordinary circumstances; providing eligibility criteria for judges of the Intermediate Court of Appeals; providing a process for initial appointment of judges to the Intermediate Court of Appeals to fill vacancies in the Intermediate Court of Appeals upon its creation; providing for an initial election of judges to the Intermediate Court of Appeals for staggered terms; providing for the regular election of a judge to each district of the Intermediate Court of Appeals upon the expiration of a sitting judge's term; establishing a procedures for the filling of vacancies in unexpired judicial terms by appointment and in certain circumstances, subsequent election; providing that the Governor's judicial appointments must be made from a list of candidates submitted by the Judicial Vacancy Advisory Commission and are subject to advice and consent of the Senate; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected public office during the judicial term; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may take effect; requiring the Chief Judge of the Intermediate Court of Appeals to publish and submit certain reports to the Legislature and Supreme Court of Appeals regarding pending cases; authorizing

filing fees; providing for deposit of filing fees in a special revenue account to fund the State Police Forensic Laboratory; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority over the Intermediate Court of Appeals; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring that appeals to the Intermediate Court of Appeals be filed with the Clerk of the Supreme Court of Appeals; providing that Intermediate Court of Appeals proceedings shall take place in publicly available facilities as arranged by the Administrative Director of the Supreme Court of Appeals; granting the Intermediate Court of Appeals discretion to require oral argument; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for lower courts; providing that the Intermediate Court of Appeals shall issue written decisions as a matter of right; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for reimbursement of expenses of Intermediate Court of Appeals staff; providing internal effective dates; removing obsolete language from the code; and making technical corrections to the code.

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,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 275), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Economic Development has had under consideration

Senate Bill 510, Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties.

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

Respectfully submitted,

Chandler Swope,
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 7, Preserving the Separation of Powers Amendment.

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

Com. Sub. for Senate Joint Resolution 7 (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, amending section one, article V thereof, relating to providing that courts have no authority by mandamus, prohibition, contempt, or otherwise to interfere with the proceedings of the Legislature; restoring the constitutional principle giving life to the separation of powers as articulated in Syllabus Point 3 of the decision of the West Virginia Supreme Court of Appeals in the case of *State ex rel. Holmes v. Clawges*, 226 W. Va. 479, 702 S.E.2d 611; and nullifying Syllabus Point 3 of the decision of the West Virginia Supreme Court of Appeals in the case of *State ex rel. Workman v. Carmichael*, 241 W. Va. 105, 819 S.E.2d 251 (2018); 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.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the resolution contained in the foregoing report from the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees:

By Senators Rucker, Blair, Smith, and Trump:

Senate Bill 657—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-1-9, relating to authorizing the Department of Commerce to assist qualifying tourism development projects and tourism development expansion projects in the creation of tourism development districts by approved companies; preempting rights of certain municipalities; limiting certain rights of a municipality's home rule powers; requiring the West Virginia Department of Transportation to participate in these developments; providing that failure to continue the Economic Development Act of 1985 does not affect the provisions of this section and created tourism development projects; proposing rules; and providing severability.

Referred to the Committee on Government Organization.

By Senators Sypolt and Trump:

Senate Bill 658—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, and §15A-9-7, all relating to establishing the Office of Administrative Hearings within the Department of Military Affairs and Public Safety; authorizing the appointment of a chief hearing examiner; establishing the organization of the Office of the Chief Hearing Examiner; establishing the jurisdiction of the Office of Administrative Hearings; establishing hearing procedures;

establishing rule-making authority; establishing a duty to provide notice of change of address; and establishing policies for the transition from divisions of the department to the Office of Administrative Hearings.

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

By Senator Rucker:

Senate Bill 659—A Bill to amend and reenact §33-6B-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-17A-6 of said code, all relating to prohibiting insurance companies from using credit ratings when establishing home and automobile insurance premiums.

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

By Senator Maynard:

Senate Bill 660—A Bill to amend and reenact §17A-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-1-1 of said code; to amend and reenact §17C-1-5a of said code; to amend said code by adding thereto a new section, designated §17C-1-70; and to amend said code by adding thereto a new section, designated §17C-11-6, all relating to electric bicycles; defining electric bicycles; excluding electric bicycles from registration, title, financial liability, and driver's license requirements; providing electric bicycle general use regulations; providing the operator of an electric bicycle has the same rights and duties as the operator of a bicycle; providing the use of an electric bicycle may be restricted by an entity having jurisdiction over a bicycle path or trail; providing that an electric bicycle is considered a motor vehicle for purposes of driving under influence of alcohol, controlled substances, or drugs; providing for helmet use requirements and class use restrictions for a person under 15 years of age; and providing criminal penalties.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

By Senators Rucker and Baldwin:

Senate Bill 661—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to replacing minimum minutes of instructional time required per day with a requirement for an average of five hours per day throughout the instructional term; prohibiting the instructional term from commencing before September 1; and allowing county boards of education to provide public notice of public hearings for discussing the school calendar by publishing prominently on the board's website instead of publishing in a local newspaper of general circulation in the area.

Referred to the Committee on Education.

By Senator Sypolt:

Senate Bill 662—A Bill to amend and reenact §44-3-1 of the Code of West Virginia, 1931, as amended, relating to removing language restricting more than two fiduciary commissioners being from the same political party.

Referred to the Committee on the Judiciary.

By Senator Beach:

Senate Bill 663—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9t, relating to the exemption of certain hygiene products from sales tax.

Referred to the Committee on Finance.

By Senator Takubo:

Senate Bill 664—A Bill to amend and reenact §16-30-7 of the Code of West Virginia, 1931, as amended, relating to adding a physician's assistant to the list of medical professionals able to determine an individual lacks capacity; updating terminology related to advanced practice registered nurses; removing terminology related to physicians; and permitting a psychologist, physician's assistant, or advanced practice registered nurse to inform a person, if conscious, that he or she has been determined to be incapacitated.

Referred to the Committee on Health and Human Resources.

By Senator Weld:

Senate Bill 665—A Bill to amend and reenact §15-2B-6 of the Code of West Virginia, 1931, as amended, relating to requiring persons convicted of certain felonies since March 9, 1995, provide a DNA sample.

Referred to the Committee on the Judiciary.

By Senator Tarr:

Senate Bill 666—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-11-1, §9-11-2, §9-11-3, §9-11-4, §9-11-5, §9-11-6, and §9-11-7, all relating to improving the quality of West Virginia's Medicaid program; establishing a pilot program to implement smart health cards for the transmission of health care-related information for certain Medicaid beneficiaries between the Department of Health and Human Resources and public and private health care providers; defining terms; establishing the Smart Health Card Medicaid Pilot Program; providing implementation date for pilot program; outlining goals of the pilot program; setting forth the requirements for establishing the pilot program; setting forth cybersecurity procurement requirements for vendors who provide technology and services relating to the pilot program; setting forth the requirements of the smart health card; restricting disclosure of health information to the same extent as federal HIPAA requirements; establishing annual reporting requirement to the Legislative Committee on Health and Human Resources Accountability; and providing for a sunset clause of June 30, 2024.

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

By Senator Beach:

Senate Bill 667—A Bill to amend and reenact §5-28-2 of the Code of West Virginia, 1931, as amended, relating to modifying the composition of the Commission on Holocaust Education.

Referred to the Committee on Government Organization.

By Senator Trump:

Senate Bill 668—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44D-8A-1, §44D-8A-2, §44D-8A-3, §44D-8A-4, §44D-8A-5,

§44D-8A-6, §44D-8A-7, §44D-8A-8, §44D-8A-9, §44D-8A-10, §44D-8A-11, §44D-8A-12, §44D-8A-13, §44D-8A-14, §44D-8A-15, §44D-8A-16, §44D-8A-17, §44D-8A-18, §44D-8A-19, §44D-8A-20, §44D-8A-21, §44D-8A-22, §44D-8A-23, §44D-8A-24, §44D-8A-25, §44D-8A-26, §44D-8A-27, §44D-8A-28, §44D-8A-29, §44D-8A-30, and §44D-8A-31, all relating to enactment of the Uniform Trust Decanting Act to allow a trustee to distribute assets of one trust into another trust.

Referred to the Committee on the Judiciary.

Senators Smith and Sybolt offered the following resolution:

Senate Concurrent Resolution 15—Requesting the Division of Highways name bridge number 16-259/00-010.43 (16A088), locally known as Lost City Bridge, carrying West Virginia Route 259 over the Lost River in Hardy County, the “Kaylee Grace Whetzel Memorial Bridge”.

Whereas, Kaylee Grace was born March 20, 2004, and was the daughter of Michael Whetzel in Lost City, West Virginia; and

Whereas, Kaylee Grace had just started kindergarten in August 2009 and shared her days with her father and paternal grandparents as the joy of their lives; and

Whereas, Kaylee Grace was described as a happy and bubbly girl who enjoyed the time spent with her father and grandparents; and

Whereas, Kaylee Grace was a victim of a horrific crime committed against her; and

Whereas, Kaylee Grace died October 23, 2009, due to the crime committed against her; and

Whereas, Beginning in 2010, Kaylee Grace’s surviving family worked with the Hardy County Community Foundation to give scholarships in memory of Kaylee Grace to graduates of Hardy County schools; and

Whereas, A scholarship has been granted to a student every year since 2011; and

Whereas, It is fitting that an enduring memorial be established to commemorate Kaylee Grace Whetzel and the love a community of this state bears for one of its citizens; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 16-259/00-010.43 (16A088), locally known as Lost City Bridge, carrying West Virginia Route 259 over the Lost River in Hardy County, the “Kaylee Grace Whetzel 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 “Kaylee Grace Whetzel Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senator Pitsenbarger offered the following resolution:

Senate Resolution 24—Congratulating Lukas and Gabby Newcomer, of Noble Farms Inc., for winning the Conservation Farm of the Year Award.

Whereas, The Conservation Farm of the Year competition showcases the best examples of farms owned and operated by people who are dedicated to conservation; and

Whereas, Cooperating farms in each county are nominated by their local conservation district and go on to compete at the county, district, area, and state levels; and

Whereas, Farms are judged on several topics, such as resource management, conservation plan, best management practices, cooperator contribution, and involvement in the community; and

Whereas, Lukas and Gabby Newcomer, of Burlington, represent the Potomac Valley Conservation District, which consists of Grant, Hampshire, Hardy, Mineral, and Pendleton counties; and

Whereas, For their efforts in conservation farming, Lukas and Gabby Newcomer were awarded the 2019 West Virginia Conservation Farm of the Year; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates Lukas and Gabby Newcomer, of Noble Farms Inc., for winning the Conservation Farm of the Year Award; and, be it

Further Resolved, That the Senate extends its sincere appreciation and gratitude to Lukas and Gabby Newcomer for their excellence in conservation farming; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to Lukas and Gabby Newcomer.

Which, under the rules, lies over one day.

Senators Palumbo and Takubo offered the following resolution:

Senate Resolution 25—Congratulating the George Washington High School Patriots boys' tennis team for winning the 2019 Class AAA State Tennis Championship.

Whereas, The George Washington High School Patriots boys' tennis team had a dominant year on the courts, on its way to winning the 2019 Class AAA State Tennis Championship; and

Whereas, The George Washington High School Patriots boys' tennis team won the school's 20th state title, and its third in as many years; and

Whereas, The George Washington High School Patriots boys' tennis team was led by first-year head coach Taylor Dixon; and

Whereas, The George Washington High School Patriots boys' tennis team roster consists of players: Anthony McIntosh, Nadeem Jones, Azeem Kahn, Kareem Bacha, Alex Stacy, Darshan Sangani, Rushik Patel, and Joseph Michael; and

Whereas, The 2019 George Washington High School Patriots boys' tennis team also captured the MSAC Championship and Region 3 Championship; and

Whereas, The 2019 George Washington High School Patriots boys' tennis team displayed its talent and strong will for an entire season and is a shining example of what can be accomplished with hard work, dedication, and spirit; and

Whereas, The 2019 George Washington High School Patriots boys' tennis team carried on the winning tradition at George Washington High School and will be remembered as one of the best boys tennis teams in West Virginia history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the George Washington High School Patriots boys' tennis team for winning the 2019 Class AAA State Tennis Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School Patriots boys' tennis team.

Which, under the rules, lies over one day.

Senators Palumbo and Takubo offered the following resolution:

Senate Resolution 26—Congratulating the George Washington High School Patriots volleyball team for winning the 2019 Class AAA State Volleyball Championship.

Whereas, The George Washington High School Patriots volleyball team had a dominant year on the court, finishing with a record of 58-2-2, on its way to winning the 2019 Class AAA State Volleyball Championship; and

Whereas, The George Washington High School Patriots volleyball team won the school's seventh volleyball title without losing a set during the state tournament; and

Whereas, The George Washington High School Patriots volleyball team is led by head coach Missy Smith, her 15th year at the helm, and assistant coaches, Makayla Mena, Rachel Menders, and Dan Shreve; and

Whereas, The George Washington High School Patriots volleyball team roster consists of players: Nyla Birch, Kaitlyn Carr, Caroline Demers, Karli Edwards, Molly Grimm, Ella Hall, Maya Harris, Camryn Hughes, Julia McClanahan, Faith Smith, Audrey Stuart, and Katherine Triplett; and

Whereas, The 2019 George Washington High School Patriots volleyball team had a historic season, winning the MSAC Championship; Region 3, Section 1 Championship; Region 3 Championship; and four regular season tournament championships; and

Whereas, The 2019 George Washington High School Patriots volleyball team displayed its talent and strong will for an entire season, and is a shining example of what can be accomplished with hard work, dedication, and spirit; and

Whereas, The 2019 George Washington High School Patriots volleyball team will be remembered as one of the best volleyball teams in West Virginia history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the George Washington High School Patriots volleyball team for winning the 2019 Class AAA State Volleyball Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School Patriots volleyball team.

Which, under the rules, lies over one day.

Senators Palumbo and Takubo offered the following resolution:

Senate Resolution 27—Congratulating the George Washington High School Patriots boys' soccer team for winning the 2019 Class AAA State Championship.

Whereas, The George Washington High School Patriots boys' soccer team had another dominant year on the pitch, finishing with a record of 23-2, on their way to winning the 2019 Class AAA State Championship; and

Whereas, The George Washington High School Patriots boys' soccer team set a state record by advancing to the state soccer tournament for the ninth consecutive year, and brought home the title in six of those years: 2007, 2011, 2013, 2016, 2018, and 2019; and

Whereas, The George Washington High School Patriots boys' soccer team was led by team captains: Senior, Zachariah Abdul-Jalil; senior, Matthew Vaughn; senior, E.J. Davis; senior, Solomon Clark; and junior, Max Trethewey. Additional team members include: Seniors—Seth Snyder, Hazem Attal, Dylan Lewis, Duncan McGee, Robby Nunley, Nick Brumage, Kevin Tiffey, Farris Fathallah, and Holden Pomponio; juniors—Xavier Bohn, Bryce Coleman, Wilson Fife, Bakar Boustany, Isaac Carney, Ian Iskra, and Julian Westfall; sophomores—Gabe Sadorra, Conner Stricklen, and Alex Ellis; and freshman—Sam Clark; and

Whereas, The George Washington High School Patriots boys' soccer team was coached by head coach Erik Engle, and assistant coaches David Nelson, Evan Pauley, Brad McGee, Peter Nelson, and Noah Shaak; and

Whereas, The 2019 George Washington High School Patriots boys' soccer team displayed its strong will and fierce determination for an entire season, and will go down in history as one of the all-time great teams in West Virginia; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the George Washington High School Patriots boys' soccer team for winning the 2019 Class AAA State Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School Patriots boys' soccer team.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 10, Requesting study of current WV laws relating to anti-bullying measures in schools.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, 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.

Senate Concurrent Resolution 14, Urging Congress declare Equal Rights Amendment to US Constitution.

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

Senate Resolution 22, Designating January 30, 2020, as Marshall University Day.

On unfinished business, coming up in regular order, was reported by the Clerk.

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.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Plymale, Rucker, Maynard, and Stollings regarding the adoption of Senate Resolution 22 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:39 a.m., the Senate recessed to present Senate Resolution 22.

The Senate reconvened at 11:45 a.m. and resumed business under the seventh order.

Senate Resolution 23, Congratulating University of Charleston men's soccer team.

On unfinished business, coming up in regular order, was reported by the Clerk.

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 Takubo, at 11:48 a.m., the Senate recessed to present Senate Resolution 23.

The Senate reconvened at 11:51 a.m. and proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 175, Requiring certain agencies maintain website which contains specific information.

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: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 175) 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 261, Creating criminal penalties for introducing ransomware into computer with intent to extort.

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: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 261) 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 339, Authorizing DHHR promulgate legislative rules.

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: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 339) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 339) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 449, Authorizing Department of Commerce promulgate legislative rules.

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

Senate Bill 508, Removing mandate Board of Risk and Insurance Management purchase liability insurance for Division of Corrections.

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

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

Com. Sub. for Senate Bill 550, Permitting leashed dogs track mortally wounded deer or bear.

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

Senate Bill 642, Correcting incorrect code citation in WV Consumer Credit and Protection Act.

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

Eng. House Bill 4103, Relating to office of drug control policy.

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

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

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

ARTICLE 5T. OFFICE OF DRUG CONTROL POLICY.**§16-5T-2. Office of Drug Control Policy.**

(a) The Office of Drug Control Policy is ~~created~~ continued within the Department of Health and Human Resources under the direction and supervision of the secretary and ~~supervision~~ with the assistance of the State Health Officer.

(b) The Office of Drug Control Policy shall create a state drug control policy in coordination with the bureaus of the department and other state agencies. This policy shall include all programs which are related to the prevention, treatment, and reduction of substance abuse use disorder.

(c) The Office of Drug Control Policy shall:

(1) Develop a strategic plan to reduce the prevalence of drug and alcohol abuse and smoking by at least 10 percent by July 1, 2018;

(2) Monitor, coordinate, and oversee the collection of data and issues related to drug, alcohol, and tobacco access, substance use disorder policies, and smoking cessation and prevention, and their impact on state and local programs;

(3) Make policy recommendations to executive branch agencies that work with alcohol and substance use disorder issues, and smoking cessation and prevention, to ensure the greatest efficiency and consistency in practices will be applied to all efforts undertaken by the administration;

(4) Identify existing resources and prevention activities in each community that advocate or implement emerging best practice and evidence-based programs for the full substance use disorder continuum of drug and alcohol abuse education and prevention, including smoking cessation or prevention, early intervention, treatment, and recovery;

(5) Encourage coordination among public and private, state and local agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, using existing information clearinghouse resources within the Department of Health and Human Resources, relating to emerging best practice and evidence-based substance use disorder prevention, cessation, treatment and recovery programs, and youth tobacco access, smoking cessation and prevention. The Office of Drug Control Policy will identify gaps in information referral sources;

(7) Apply for grant opportunities for existing programs;

(8) Observe programs in other states;

(9) Make recommendations and provide training, technical assistance, and consultation to local service providers;

(10) Review existing research on programs related to substance use disorder prevention and treatment and smoking cessation and prevention, and provide for an examination of the prescribing and treatment history, including court-ordered treatment, or treatment within the criminal justice system, of persons in the state who suffered fatal or nonfatal opiate overdoses;

(11) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(12) Establish a mechanism to coordinate the distribution of funds to support a local program based on the strategic plan that could encourage substance use prevention, early intervention, treatment, and recovery through efficient, effective and research-based strategies;

(13) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement school-based anti-drug and anti-tobacco programs;

(14) Coordinate media campaigns designed to demonstrate the negative impact of substance use disorder, smoking and the increased risk of tobacco addiction and the development of other diseases;

(15) Review Drug Enforcement Agency and the West Virginia scheduling of controlled substances and recommend changes that should be made based on data analysis;

(16) Develop recommendations to improve communication between health care providers and their patients about the risks and benefits of opioid therapy for acute pain, improve the safety and effectiveness of pain treatment, and reduce the risks associated with long-term opioid therapy, including opioid use disorder and overdose;

(17) Develop and implement a program, in accordance with the provisions of ~~section three~~ §16-5T-3 of this code, to collect data on fatal and nonfatal drug overdoses caused by abuse and misuse of prescription and illicit drugs, from law enforcement agencies, emergency medical services, health care facilities and the Office of the Chief Medical Examiner;

(18) Develop and implement a program that requires the collection of data on the dispensing and use of an opioid antagonist from law enforcement agencies, emergency medical services, health care facilities, the Office of the Chief Medical Examiner and other entities as required by the office;

(19) Develop a program that provides assessment of persons who have been administered an opioid antagonist; and

(20) Report semi-annually to the Joint Committee on Health on the status of the Office of Drug Control Policy.

(d) Notwithstanding any other provision of this code to the contrary, and to facilitate the collection of data and issues, the Office of Drug Control Policy may exchange necessary data and information with the bureaus within the department, the Department of Military Affairs and Public Safety, the Department of Administration, the Administrator of Courts, the Poison Control Center, and the Board of Pharmacy. The data and information may include, but is not limited to: Data from the Controlled Substance Monitoring Program; the all-payer claims database; the criminal offender record information database; and the court activity record information;

(e) Prior to July 1, 2018, the office shall develop a plan to expand the number of treatment beds in locations throughout the state which the office determines to be the highest priority for serving the needs of the citizens of the state.

The bill (Eng. H. B. 4103), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Senate Bill 281, Removing residency requirement for persons applying for reappointment to municipal police dept.

Com. Sub. for Senate Bill 511, Regulating pawnbrokers.

Com. Sub. for Senate Bill 534, Removing workers' compensation exclusion for temporary legislative employees.

Com. Sub. for Senate Bill 547, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation.

And,

Senate Bill 552, Requiring contracts of \$25,000 or more be competitively bid.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Woelfel, Takubo, and Romano.

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

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills:

Senate Bill 510 (*Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties*): Senator Cline;

And,

Senate Bill 588 (*Expanding early childhood education programs to three-year-old children*): Senator Beach.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills:

Senate Bill 279 (*Requiring dental insurance plans honor assignment made in writing by person covered*): Senator Jeffries;

Senate Bill 281 (*Removing residency requirement for persons applying for reappointment to municipal police dept*): Senator Palumbo;

Senate Bill 521 (*Creating Tax and Economic Incentives Review Committee*): Senator Roberts;

Senate Bill 554 (*Relating to termination, expiration, or cancellation of oil or natural gas leases*): Senator Hamilton;

Senate Bill 637 (*Prohibiting home schooling of children in certain circumstances*): Senator Hamilton;

Senate Bill 643 (*Creating Youth Mental Health Protection Act*): Senators Hardesty, Palumbo, Plymale, and Woelfel;

Senate Bill 644 (*Assessing wildlife impact fee on wind power projects*): Senators Cline and Sypolt;

Senate Bill 645 (*Protecting albino deer*): Senators Cline and Stollings;

Senate Bill 647 (*Permitting physician assistants and advanced practice registered nurses issue do-not-resuscitate orders*): Senator Plymale;

Senate Bill 648 (*Providing dental coverage for adult Medicaid recipients*): Senators Baldwin, Cline, Hardesty, Lindsay, Palumbo, Plymale, and Unger;

Senate Bill 649 (*Permitting county emergency phone system directors negotiate contracts for mobile phones*): Senator Cline;

Senate Bill 650 (*Altering color scheme for county, city, or municipality vehicle registration plates*): Senator Cline;

Senate Bill 652 (*Authorizing School Building Authority promulgate legislative rules*): Senators Cline and Roberts;

And,

Senate Bill 654 (*Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System*): Senators Cline and Stollings.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

Senate Concurrent Resolution 10 (*Requesting study of current WV laws relating to anti-bullying measures in schools*): Senator Baldwin;

Senate Concurrent Resolution 14 (*Urging Congress declare Equal Rights Amendment to US Constitution*): Senators Baldwin, Beach, Lindsay, and Stollings;

Senate Resolution 22 (*Designating January 30, 2020, as Marshall University Day*): Senators Baldwin, Hamilton, Lindsay, Palumbo, Rucker, Stollings, and Unger;

And,

Senate Resolution 23 (*Congratulating University of Charleston men's soccer team*):
Senators Cline, Lindsay, Plymale, Stollings and Unger.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:14 p.m., the Senate adjourned until tomorrow, Friday, January 31, 2020, at 11 a.m.

SENATE CALENDAR

**Friday, January 31, 2020
11:00 AM**

UNFINISHED BUSINESS

- S. C. R. 15 - Kaylee Grace Whetzel Memorial Bridge
- S. R. 24 - Congratulating Lukas and Gabby Newcomer, of Noble Farms, Inc., for winning Conservation Farm of Year Award **[ADOPT]**
- S. R. 25 - Congratulating George Washington High School Patriots boys' tennis team for winning 2019 Class AAA State Tennis Championship **[ADOPT]**
- S. R. 26 - Congratulating George Washington High School Patriots volleyball team for winning 2019 Class AAA State Volleyball Championship **[ADOPT]**
- S. R. 27 - Congratulating George Washington High School Patriots boys' soccer team for winning 2019 Class AAA State Championship **[ADOPT]**

THIRD READING

- Eng. Com. Sub. for S. B. 449 - Authorizing Department of Commerce promulgate legislative rules
- Eng. Com. Sub. for S. B. 550 - Permitting leashed dogs track mortally wounded deer or bear
- Eng. S. B. 642 - Correcting incorrect code citation in WV Consumer Credit and Protection Act
- Eng. H. B. 4103 - Relating to office of drug control policy

SECOND READING

- S. B. 281 - Removing residency requirement for persons applying for reappointment to municipal police dept
- Com. Sub. for S. B. 511 - Regulating pawnbrokers
- Com. Sub. for S. B. 534 - Removing workers' compensation exclusion for temporary legislative employees
- Com. Sub. for S. B. 547 - Relating to employer testing, notice, termination, and forfeiture of unemployment compensation
- S. B. 552 - Requiring contracts of \$25,000 or more be competitively bid

FIRST READING

- Com. Sub. for S. B. 240 - Requiring hotels and restaurants secure manhole covers of certain grease traps
- Com. Sub. for S. B. 267 - Creating offenses of conversion of leased or rented personal property

Com. Sub. for S. B. 308 - Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation

S. B. 510 - Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties

Com. Sub. for S. J. R. 7 - Preserving the Separation of Powers Amendment

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2020

Friday, January 31, 2020

10 a.m.

Judiciary

(Room 208W)