

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### House Bill 3279

FISCAL  
NOTE

BY DELEGATE GRIFFITH

[Introduced March 16, 2021; Referred to the  
Committee on Finance]

1 A BILL to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended, relating to  
 2 authorizing the Secretary of the Department of Health and Human Resources to  
 3 implement a state-wide nutrition incentive program that encourages citizens who receive  
 4 Supplemental Nutrition Assistance Program (SNAP) benefits to consume fresh, healthy,  
 5 and locally grown food from eligible food items purchased at local farmer’s markets and  
 6 participating grocers: and providing for an equal SNAP credit for the use of additional  
 7 farmer market purchases up to \$40 a month.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND  
 RESPONSIBILITIES GENERALLY.**

**§9-2-6. Powers of secretary.**

1 Within limits of state appropriations and federal grants and subject to provisions of state  
 2 and federal laws and regulations, the secretary, in addition to all other powers, duties, and  
 3 responsibilities granted and assigned to that office in this chapter and elsewhere by law, is  
 4 ~~authorized to~~ may:

5 (1) Promulgate, amend, revise, and rescind department rules respecting the organization  
 6 and government of the department and the execution and administration of those powers, duties,  
 7 and responsibilities granted and assigned by this chapter and elsewhere by law to the department  
 8 and the secretary.

9 (2) Promulgate, amend, revise and rescind department rules and regulations respecting  
 10 qualifications for receiving the different classes of welfare assistance consistent with or permitted  
 11 by federal laws, rules and policies, but not inconsistent with state law: Provided, That rules and  
 12 policies respecting qualifications shall permit the expenditure of state funds to pay for care  
 13 rendered in any birthing center licensed under the provisions of §16-2E-1, *et seq.* of this code by  
 14 a licensed nurse midwife or midwife as this occupation is defined in §30-15-7 of this code and

15 which care is within the scope of duties for such licensed nurse midwife or midwife as permitted  
16 by ~~the provisions of~~ section seven of said article.

17 (3) Obtain by purchase or lease grounds, buildings, office or other space, equipment,  
18 facilities and services as may be necessary for the execution and administration of those powers,  
19 duties, and responsibilities granted and assigned by this chapter and elsewhere by law to the  
20 department and the secretary.

21 (4) Sign and execute in the name of the state by the State Department of Health and  
22 Human Resources any contract or agreement with the federal government or its agencies, other  
23 states, political subdivisions of this state, corporations, associations, partnerships, or individuals:  
24 *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed.

25 (5) Sign and execute a contract to implement professional health care, managed care,  
26 actuarial and health care-related monitoring, quality review/utilization, claims processing, and  
27 independent professional consultant contracts for the Medicaid program: *Provided*, That the  
28 provisions of §5A-3-1 *et seq.* of this code are followed: *Provided, however*, That a contract  
29 awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains  
30 in full force and effect and the secretary retains sole authority to review, approve, and issue  
31 changes to contracts issued under the former purchasing process, and is responsible for  
32 challenges, disputes, protests, and legal actions related to such contracts.

33 (6) Establish such special funds as may be required by the federal Social Security Act, as  
34 amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of  
35 the benefits and provisions thereof relating to the federal-state assistance and federal assistance  
36 programs administered by the department and to make payments into and disbursements out of  
37 any such special fund or funds in accordance with the requirements of the federal Social Security  
38 Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state  
39 law and the objects and purposes of this chapter. In addition, the State Department of Health and  
40 Human Resources, through the secretary, is hereby authorized to accept any and all gifts or

41 grants, whether in money, land, services or materials, which gift or gifts, if in the form of moneys,  
42 shall be placed in a separate fund and expended solely for the purpose of public assistance  
43 programs. No part of this special fund shall revert to the General Revenue Funds of this state. No  
44 expenses incurred pursuant to this special fund shall be a charge against the General Funds of  
45 this state.

46 (7) Establish within the department an Office of Inspector General for the purpose of  
47 conducting and supervising investigations, performing inspections, evaluations, and review, and  
48 providing quality control for the programs of the department. The Office of Inspector General shall  
49 be headed by the Inspector General who shall report directly to the secretary. Neither the  
50 secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector  
51 General or his or her employees from initiating, carrying out, or completing any investigation,  
52 inspection, evaluation, review or other activity oversight of public integrity by the Office of the  
53 Inspector General. The secretary shall place within the Office of Inspector General any function  
54 he or she deems necessary. Qualification, compensation, and personnel practice relating to the  
55 employees of the Office of the Inspector General, including that of the position of Inspector  
56 General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and  
57 rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office  
58 of Inspector General.

59 (8) Provide at department expense a program of continuing professional, technical, and  
60 specialized instruction for the personnel of the department.

61 (9) Pay from available funds all or part of the reasonable expenses incurred by a person  
62 newly employed by the department in moving his household furniture, effects, and immediate  
63 family from his or her place of residence in this state to his or her place of employment in this  
64 state; and to pay from available funds all or part of the reasonable expenses incurred by a  
65 department employee in moving his or her household furniture, effects, and immediate family as  
66 a result of a reassignment of the employee which is considered desirable, advantageous to and

67 in the best interests of the state, but no part of the moving expenses of any one such employee  
68 shall be paid more frequently than once in 12 months or for any movement other than from one  
69 place of employment in this state to another place of employment in this state.

70 (10) Establish a program to provide reimbursement to employees of the department whose  
71 items of personal property, as defined by the department by policy, are damaged during the  
72 course of employment or other work-related activity as a result of aggressive behavior by a client  
73 or patient receiving services from the department: *Provided*, That such reimbursement is limited  
74 to a maximum amount of \$250 per claim.

75 (11) Establish and maintain such institutions as are necessary for the temporary care,  
76 maintenance, and training of children and other persons.

77 (12) Prepare and submit state plans which will meet the requirements of federal laws,  
78 rules governing federal-state assistance and federal assistance and which are not inconsistent  
79 with state law.

80 (13) Organize within the department a Board of Review, consisting of a chairman  
81 appointed by the secretary and as many assistants or employees of the department as may be  
82 determined by the secretary and as may be required by federal laws and rules respecting state  
83 assistance, federal-state assistance, and federal assistance, ~~such~~ the Board of Review to have  
84 ~~such~~ powers of a review nature and such additional powers as may be granted to it by the  
85 secretary and as may be required by federal laws and rules respecting federal-state assistance  
86 and federal assistance.

87 (14) Provide by rules review and appeal procedures within the Department of Health and  
88 Human Resources as may be required by applicable federal laws and rules respecting state  
89 assistance, federal-state assistance, and federal assistance and as will provide applicants for,  
90 and recipients of, all classes of welfare assistance an opportunity to be heard by the Board of  
91 Review, a member thereof or individuals designated by the board, upon claims involving denial,  
92 reduction, closure, delay, or other action or inaction pertaining to public assistance.

93           (15) Provide by rules, consistent with requirements of applicable federal laws and rules,  
94 application forms and application procedures for the various classes of public assistance.

95           (16) Provide locations for making applications for the various classes of public assistance.

96           (17) Provide a citizen or group of citizens an opportunity to file objections and to be heard  
97 upon objections to the grant of any class of public assistance.

98           (18) Delegate to the personnel of the department all powers and duties vested in the  
99 secretary, except the power and authority to sign contracts and agreements.

100           (19) Make such reports in such form and containing such information as may be required  
101 by applicable federal laws and rules respecting federal-state assistance and federal assistance.

102           (20) Invoke any legal, equitable, or special remedies for the enforcement of the provisions  
103 of this chapter.

104           (21) Require a provider, subgrantee, or other entity performing services on behalf of the  
105 department to comply with all applicable laws, rules, and written procedures pertaining to the  
106 program for which the entity is providing or coordinating services, including, but not limited to,  
107 policy manuals, statements of work, program instructions, or other similar agreements. When  
108 submitting a claim for payment, the entity shall certify that it has complied with all material  
109 conditions for payment. Knowingly and intentionally submitting a claim or billing for services  
110 performed in material violation of any law, rule, policy, or other written agreement shall constitute  
111 fraud and the agreement for provision of services shall terminate. The entity shall be required to  
112 repay the department for any payment under the program for which the provider was not entitled,  
113 regardless of whether the incorrect payment was the result of department error, fraud, or other  
114 cause. A demand for repayment or termination of agreement for provision of services shall be  
115 subject to the due process procedures pursuant to §29A-5-1 *et seq.* of this code. The provisions  
116 of this subsection do not apply to fraud in the Medicaid program.

117           (22) Develop a data analytics pilot program to identify potential fraud and help guide policy  
118 objectives to eliminate future fraud. The secretary shall submit a report containing the pilot

119 program's results and recommendations to the Joint Committee on Government and Finance no  
120 later than December 31, 2020.

121 (23) Implement a state-wide nutrition incentive program that encourages citizens who  
122 receive Supplemental Nutrition Assistance Program (SNAP) benefits to consume fresh, healthy,  
123 and locally grown food by providing one-to-one matching funds for Supplemental Nutrition  
124 Assistance Program-eligible food items purchased at local farmer's markets and participating  
125 grocers. The program shall provide that for every dollar spent on Supplemental Nutrition  
126 Assistance Program-eligible food items an equal credit shall be given for the use of additional  
127 farmer market purchases up to \$40 a month. The secretary shall consult with the West Virginia  
128 Farmers Market Association and the Commissioner of Agriculture for the sources of fresh,  
129 healthy, and locally grown food in the implementation and operation of this program.

NOTE: The purpose of this bill is to authorize the Secretary of the Department of Health and Human Resources to implement a state-wide nutrition incentive program that encourages citizens who receive Supplemental Nutrition Assistance Program (SNAP) benefits to consume fresh, healthy, and locally grown food from eligible food items purchased at local farmer's markets and participating grocers, and providing for an equal SNAP credit for the use of additional farmer market purchases up to \$40 a month.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.