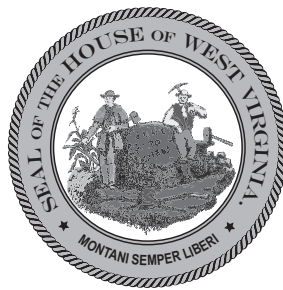


West Virginia Legislature

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March 6, 2018  
FIFTY-SIXTH DAY



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Tuesday, March 6, 2018

**FIFTY-SIXTH DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Monday, March 5, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Conference Committee Report Availability**

At 11:36 a.m., the Clerk announced that the report of the Committee of Conference on **Com. Sub. for H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel, shall be available outside of the Clerk's Office.

Delegate Cowles moved that the provisions of Joint Rule 3 requiring a Conference Committee Report to lie over one day be suspended.

On this question, the yeas and nays were taken (**Roll No. 329**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members present and voting having voted in the affirmative, the motion was adopted.

**Conference Committee Report**

Delegate Espinosa, from the Committee of Conference on matters of disagreement between the two houses, as to

**Com. Sub. for H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the Senate amendment to **Com. Sub. for H. B. 4145** having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate recede from its position as to their amendment to the bill.

Respectfully submitted,

Paul Espinosa, *Chair*  
 Bill Anderson,  
 Brent Boggs  
*Conferees on the part  
 of the House of Delegates.*

Ryan J. Ferns, *Chair*  
 Craig Blair,  
 Robert H. Plymale  
*Conferees on the part  
 of the Senate.*

On motion of Delegate Espinosa, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

Delegate Sobonya demanded the previous question. On this motion, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 330**), and there were—yeas 43, nays 56, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Adkins, Ambler, Blair, Butler, Cooper, Criss, Dean, Ellington, Espinosa, Fast, Foster, Frich, Gearheart, Graves, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kelly, Martin, McGeehan, C. Miller, Moore, Pack, Paynter, Phillips, C. Romine, Rowan, Shott, Sobonya, Statler, Summers, Sypolt, Wagner, Walters, Ward, Westfall, White, Wilson and Zatezalo.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the motion was rejected.

On the passage of the bill, the yeas and nays were taken (**Roll No. 331**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4145) passed.

Delegate Cowles moved that the bill take July 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 332**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4145) takes effect July 1, 2018.

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

### Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 375**, Relating to farmers markets,

And,

**Com. Sub. for S. B. 443**, Terminating parental rights when certain conditions are met,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 401**, Requiring specified coverage in health benefit plans for treatment of substance abuse disorders,

**Com. Sub. for S. B. 491**, Establishing fee for expungement of certain criminal convictions,

And,

**Com. Sub. for S. B. 495**, Designating specific insurance coverages exempt from rate filing requirements,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**Com. Sub. for S. B. 271**, Creating centralized Shared Services Section of Department of Administration,

And,

**Com. Sub. for S. B. 283**, Relating generally to procurement by state agencies,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 408**, Licensing of nursing homes and assisted living residences.

And,

**S. B. 612**, Relating to sale of municipal property,

And reports the same back with the recommendation that they each do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 313**, Waiving occupational fees and licensing requirements for certain low-income individuals, military families, and young workers,

**S. B. 468**, Changing date and recipients for submission of Auditor's annual report.

And,

**S. B. 592**, Adding examination of advanced care technician for firefighter paramedic.

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. J. R. 3**, Judicial Budget Oversight Amendment,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4142**, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section four-b, by striking out all of lines four through nine and inserting in lieu thereof the following:

“(b) The Legislature hereby directs that a pay equity salary adjustment and increase be provided to all employees of the Division of Corrections, Division of Juvenile Services, and the West Virginia Regional Jail and Correctional Facility Authority, regardless of where the employee reports to work. This salary adjustment shall be for a total of \$6,000 apportioned over a three-year period as follows” and a colon.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 333**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4142) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

**Com. Sub. for S. B. 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Sobonya, Hollen and Byrd.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

**Com. Sub. for S. B. 451**, Relating generally to hunting and fishing.

On motion of Delegate Cowles, the House concurred in the following Senate title amendment:

**Com. Sub. for S. B. 451** – “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-9 of said code, all relating generally to hunting and fishing; authorizing the use of certain technologies for hunting coyote, fox, racoon, opossum, and skunk; regulating firearm use and possession in certain places; prohibiting the use of a drone or unmanned aircraft to wound, harass, or transport wildlife; allowing certain persons to carry firearms, including handguns, rifles, or shotguns, for self-defense with certain exceptions; creating a misdemeanor and providing penalties for catching, taking, killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency personnel stocking fish into public waters; removing a limitation on the starting time for Sunday hunting on private lands with the landowner’s permission; requiring crossbows and bows be cased when in a motor vehicle during certain times; prohibiting nocked bows from being transported in a motor vehicle; providing that the misdemeanor offenses of hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting on private land on Sunday without written permission, and destroying posted land signs will all carry penalties equivalent to the penalty for the offense of criminal trespass; providing increased penalties upon

conviction of second and subsequent violations of certain natural resources laws; permitting Sunday hunting on public lands; permitting noodling, or fishing for catfish using one's bare hands; and making technical changes."

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 334**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 451) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the adoption, as amended, of

**S. C. R. 51**, Extending conference committee relating to Engrossed Committee Substitute for HB 4013.

### Special Calendar

#### Third Reading

**Com. Sub. for S. B. 7**, Relating to claims under Wage Payment and Collection Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 335**), and there were—yeas 43, nays 56, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Adkins, Ambler, Anderson, Atkinson, Blair, Capito, Cooper, Cowles, Espinosa, A. Evans, Foster, Frich, Gearheart, Graves, Hamrick, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kessinger, Lane, C. Miller, Moore, Nelson, Overington, Pack, Queen, C. Romine, R. Romine, Rowan, Shott, Sobonya, Statler, Sypolt, Wagner, Walters, Westfall, Wilson, Zatezalo and Mr. Speaker, Mr. Armstead.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 7) rejected.

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

### Reordering of Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 116 and S. B. 297, on Second Reading, Special Calendar, to the House Calendar; Com. Sub. for H. B. 4019, to the foot of the calendar; and Com. Sub. for S. B. 508, on First Reading, Special Calendar, to the House Calendar.



**Special Calendar****Third Reading**

- continued -

**S. B. 47**, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 336**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 47) passed.

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

**Com. Sub. for S. B. 102**, Creating WV Uniform Fiduciary Access to Digital Assets Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 337**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fast.

Absent and Not Voting: Deem and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 102) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 102** - "A Bill to amend and reenact §39B-2-101 of the Code of West Virginia, 1931, as amended; to amend and reenact §39B-3-101 of said code; and to amend said code by adding thereto a new article, designated §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18, and §44-5B-19, all relating to the Uniform Power of Attorney Act and the West Virginia Uniform Fiduciary Access to Digital Assets Act; providing that an agent under power of attorney may exercise authority over the content of electronic communications sent or received by the principal; clarifying the ability of an agent under a power of attorney to take self-benefitting actions; providing code references and additional language to the statutory form for power of attorney; creating the West Virginia Uniform Fiduciary Access to Digital Assets Act; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets with or without an online tool; addressing terms of service agreements; setting forth procedure for disclosing digital assets by custodian; allowing custodian to assess reasonable administrative charges; allowing custodian or fiduciary to seek court order when request imposes an undue burden; providing for disclosure of content of electronic communications and other digital assets of deceased users and setting forth required documentation; providing for

disclosure of content of electronic communications and digital assets of a principal by custodian and setting forth required documentation; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of contents of electronic communications held in trust and other digital assets when trustee is not an original owner or user and setting forth required documentation; addressing disclosure of digital assets to conservator of a protected person and setting forth required documentation; setting forth fiduciary's duties and authority; providing for custodian's compliance and immunity; setting time frame for compliance by custodian; authorizing application for court order for noncompliance; allowing custodian to notify user, deny a request, or receive a court order; providing for uniformity of application and construction of article; addressing relation of article to Electronic Signatures in Global and National Commerce Act; and providing for severability of article."

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

**Com. Sub. for S. B. 133**, Exempting renewal of certain contracts entered into during declared state of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 338**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 133) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 133** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-3c, relating to exempting certain contracts related to recovery from a declared state of emergency from purchasing requirements; clarifying exemption from purchasing requirements for certain contracts entered into during a declared state of emergency; exempting from purchasing requirements renewals of certain contracts entered into during a declared state of emergency; clarifying that with respect to the renewal of certain contracts entered into during a declared state of emergency, recovery does not include permanent reconstruction after the initial state of emergency has ended; exempting from purchasing requirements the purchase of goods or services from the federal government or an agency thereof if the purchase of those goods and services is directly and solely related to the recovery from a declared state of emergency; requiring the Director of the Division of Homeland Security and Emergency Management to certify eligibility for exemption; setting forth record-keeping requirements; and defining the term 'directly and solely related'."

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

**S. B. 272**, Relating generally to drug control; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 339**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Foster and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 272) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 272** - "A Bill to amend and reenact §16-5T-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-5T-6; to amend and reenact §16-46-4 of said code; and to amend said code by adding thereto a new section, designated §16-46-7, all relating to drug control; requiring reports to the Office of Drug Control Policy; allowing the Office of Drug Control Policy to establish a pilot program for community response to persons who have experienced a recent overdose; requiring governmental agencies to require first responders to carry Naloxone subject to certain conditions; requiring governmental agencies to require first responders to be trained in naloxone use; providing that naloxone is subject to funding and availability; and providing for a statewide standing order for Naloxone by the state health officer."

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

**S. B. 298**, Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 340**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 298) passed.

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

**S. B. 319**, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 341**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Isner, Lynch, Marcum, Pushkin, Pyles and Wagner.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 319) passed.

On motion of Delegate Espinosa, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 319** – “A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to allowing, in certain instances, individuals completing a secondary education program in a public, private, or home school and individuals obtaining a GED or equivalent to be eligible for the PROMISE scholarship.”

Delegate Cowles moved that the bill take effect from July 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 342**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Lynch, Marcum and Pyles.

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 319) takes effect from July 1, 2018.

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

**S. B. 365**, Relating to Young Entrepreneur Reinvestment Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 343**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Blair, Cowles, Summers and Wilson.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 365) passed.

On motion of Delegate Hill, the title of the bill was amended to read as follows:

**S. B. 365** - “A Bill to amend and reenact §59-1-2c of the Code of West Virginia, 1931, as amended, relating to the Young Entrepreneur Reinvestment Act; eliminating sunset date for expiration of fee waivers.”

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

**Com. Sub. for S. B. 412**, Relating to authority of county litter control officers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 344**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 412) passed.

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

**S. B. 427**, Modifying form of notice for certain tax delinquencies; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 345**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Butler, Graves and Sponaule.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 427) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

**S. B. 427** - "A Bill to amend and reenact §11-6-23 of the Code of West Virginia, 1931, as amended, relating to allowing the Secretary of State to give written notice of delinquency in the payment of certain taxes to certain taxpayers by first class mail."

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

**S. B. 441**, Relating to health care provider taxes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 346**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 441) passed.

Delegate Cowles moved that the bill take effect July 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 347**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 441) takes effect July 1, 2018.

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

**Com. Sub. for S. B. 456**, Physical Therapy Licensure Compact Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 348**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 456) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 456** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-41-1, §30-41-2, and §30-41-3, all relating to creating the Physical Therapy Licensure Compact Act; authorizing the Board of Physical Therapy to execute the compact; setting forth purposes; setting forth the purposes for the compact; defining terms; providing participation requirements; providing licensure requirements; establishing a licensure process; establishing application process; providing for fees; providing requirements for renewal of a license; providing for joint investigation; establishing the effect of disciplinary actions; creating the commission to administer the compact; setting forth commission composition; establishing the authority of the commission; providing immunity; establishing commission rule-making authority; establishing licensure information system; providing for compact administrators; providing for judicial review; providing for state enforcement; providing the commission may intervene in proceedings; providing for legal enforcement of compact rules and provisions; providing for termination or withdrawal of a member state; providing for compact oversight; providing dispute resolution; setting forth provisions for resolution of disputes; establishing provisions for state eligibility; setting forth the circumstances under which the compact will become effective; providing for amending the compact; setting forth procedures for states to withdraw from the compact; providing process to amend the compact; establishing provisions related to severability.; and establishing an effective date.”

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

At 1:05 p.m., on motion of Delegate Cowles, the House of Delegates recessed for one hour.

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### Afternoon Session

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on and the passage, as amended by said report, to take effect July 1, 2018, of

**Com. Sub. for H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 110**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 307**, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 346**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

**Com. Sub. for S. B. 395**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board.

### **Special Calendar**

#### **Third Reading**

- continued -

**Com. Sub. for S. B. 493**, Relating to guaranty associations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 349**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 493) passed.

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

**Com. Sub. for S. B. 499**, Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 350**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 499) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 499** - "A Bill to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating to the licensing by the Board of Medicine; clarifying certain requirements to obtain licensure; reorganizing the minimum licensing requirements for a license; providing the completion of a certain amount of graduate clinical training."

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

**Com. Sub. for S. B. 510**, Designating hospitals for stroke treatment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 351**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 510) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 510** - "A Bill to amend and reenact §16-5B-18 of the Code of West Virginia, 1931, as amended, relating to designation of hospitals for stroke treatment; adding a designation as a thrombectomy-capable stroke center; modifying the makeup of the advisory committee; providing certain functions to the advisory committee; permitting the advisory committee to make recommendations to the office of Emergency Services; staggering the terms of the advisory committee members; providing for a database; and prohibiting certain inspections of hospitals conducted by the Department of Health and Human Resources."

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

**Com. Sub. for S. B. 522**, Relating generally to Administrative Procedures Act; on third reading, coming up in regular order, was read a third time.



The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 352**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Miley, Pushkin and Rowe.

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) passed.

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

**S. B. 545**, Relating to driving privileges and requirements for persons under 18; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 353**), and there were—yeas 68, nays 30, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, Butler, Byrd, Capito, Caputo, E. Evans, Fast, Fluharty, Folk, Frich, Gearheart, Hamrick, Harshbarger, Hicks, Higginbotham, Howell, Kessinger, Longstreth, Marcum, Martin, Maynard, McGeehan, Moore, Paynter, Pushkin, Robinson, Sponaugle, Summers, Upson and Wilson.

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 545) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**S. B. 545** - "A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating to driving privileges and requirements for persons under the age of 18; prohibiting a holder of a level three, full Class E license who is under the age of 18 years from using a wireless communication device while operating a motor vehicle and specifying exception; and making violations of level-three license terms and conditions subject to the penalty provision." Delegate Cowles moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 354**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, Fluharty, Folk, Howell, Isner, Martin, McGeehan, Moore, Paynter, Pushkin, Robinson, Sponaugle, Summers and Wilson.

Absent and Not Voting: Deem and Hill.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 545) takes effect from passage.

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

At 2:53 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 6:30 p.m.

\* \* \* \* \*

### Evening Session

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### Conference Committee Report Availability

At 7:15 p.m., the Clerk announced that the report of the Committee of Conference on **Com. Sub. for H. B. 4013**, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state, shall be available in the Clerk's Office.

### Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 273, on Second Reading, Special Calendar, to the House Calendar; and S. B. 632, on First Reading, Special Calendar, to the House Calendar.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for H. B. 2607**, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Trump, Weld and Woelfel.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Foster, Sobonya and Canestraro.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for H. B. 2995**, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Smith, Maynard and Baldwin.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Hamrick, Sypolt and Lynch.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for H. B. 4186**, Relating generally to guaranteed asset protection waivers.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Rucker, Azinger and Beach.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Fast, Overington and Lovejoy.

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

### **Special Calendar**

### **Second Reading**

- continued -

**Com. Sub. for S. B. 36**, Relating generally to DNA testing; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 51**, Relating to domestic relations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page six, section two hundred six, line eight, after the words "have a", by inserting the word "meaningful".

On page seven, section two hundred six, after line forty, by inserting a new subsection, designated subsection (b), to read as follows:

"(b) The court shall not consider the allocation of custodial responsibility arising from temporary arrangements after separation, whether those arrangements are consensual or by court order."

And,

By relettering the remaining subsections.

Delegate Fleischauer moved to amend the on page six, section two hundred six, line fourteen, following the semicolon, by inserting a new paragraph, designated (3), to read as follows:

"(3) The proportion of time each parent spent performing caretaking functions for the child prior to the parents' separation, or if the parents never lived together, before the filing of the action."

And, renumbering the subsequent paragraphs accordingly.

The question before the House being the adoption of the amendment to the amendment, the same was put and did not prevail.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 261**, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

## **"CHAPTER 11. TAXATION.**

### **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

#### **§11-15-4c. Collection of fee in addition to the consumers sales tax for sales of mobile factory-built homes; deposit of additional fee in West Virginia Affordable Housing Trust Fund.**

(a) There is imposed, in addition to the sales tax imposed by the provisions of this article and §11-15A-1 *et seq.* of this code, a fee of \$20 on all sales by licensed dealers of factory-built homes as that term is defined in §37-15-2 of this code to be collected as provided in §11-15B -1 *et seq.* of this code and remitted to the Tax Commissioner to be deposited by the commissioner in the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund, as provided in ~~§31-18D-1 *et seq.*~~ §31-18-20d of this code.

(b) The moneys collected from this additional fee shall be segregated from other funds ~~in the West Virginia Affordable Housing Trust Fund of the West Virginia Housing Development Fund~~ and shall be accounted for separately. ~~Not more than ten percent of these additional~~ None of these moneys may be expended by the ~~West Virginia Affordable Housing Trust Fund Housing Development Fund~~ Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the ~~West Virginia Affordable Housing Trust Fund Housing Development Fund~~ Housing Development Fund.

## ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

### §11-22-2. Rate of tax; when and by whom payable; additional county tax.

(a) Every person who delivers, accepts or presents for recording any document, or in whose behalf any document is delivered, accepted or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, a state excise tax upon the privilege of transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the document as defined in §11-22-1 of this code. The state tax is payable at the time of delivery, acceptance or presenting for recording of the document. In addition to the state excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund as provided in ~~§31-18D-1 et seq. §31-18-20d~~ of this code. The moneys collected from this additional fee shall be segregated from other funds ~~in the West Virginia Affordable Housing Trust Fund of the West Virginia Housing Development Fund~~ and shall be accounted for separately. ~~Not more than ten percent of these additional~~ None of these moneys may be expended by the ~~West Virginia Affordable Housing Trust Fund Housing Development Fund~~ Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the ~~West Virginia Affordable Housing Trust Fund Housing Development Fund~~ Housing Development Fund. The ~~West Virginia Housing Development Fund as fiscal agent of the West Virginia Affordable Housing Trust Fund~~ shall publish monthly on the Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including the group receiving funds, their location and any contractor awarded the construction contract. ~~Additionally, the West Virginia Affordable Housing Trust Fund is to provide an annual report to the Joint Committee on Government and Finance before December 1, 2007, and each year thereafter~~

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55¢ for each \$500 value or fraction thereof as represented by such document as defined in ~~section one of this article~~ §11-22-1 of this code, which county tax shall be payable at the time of delivery, acceptance or presenting for recording of such document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction thereof, as represented by a document as defined in ~~section one of this article~~ §11-22-1 of this code: *Provided further*, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than thirty

days nor more than sixty days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area shall be the county in which such county commission is located.

## CHAPTER 31. CORPORATIONS.

### ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

#### §31-18-3. Definitions.

As used in this article, unless the context otherwise requires:

(1) 'Affordable Housing Fund' means the affordable housing fund created and established by the Housing Development Fund in accordance with §31-18-20d of this code.

~~(1)~~ (2) 'Annual sinking fund payment' means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such calendar year, but shall not include any amount payable by reason only of the maturity of a bond.

~~(2)~~ (3) 'Development costs' means the costs approved by the Housing Development Fund as appropriate expenditures by the Housing Development Fund or by sponsors, for land development, residential housing, or nonresidential projects within this state, including, but not limited to:

(a) Payments for options to purchase proposed sites, necessary easements and other related property rights, deposits on contracts of purchase, or, with prior approval of the Housing Development Fund, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorneys' fees, utility and governmental application and filing fees and expenses, project manager and clerical staff salaries, office rent and other incidental expenses;

(c) Payment of fees and expenses for preliminary feasibility studies and costs estimates and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses; and

(e) Necessary application, approval and other fees.

~~(3)~~ (4) 'Eligible persons and families' means:

(a) Persons and families of low and moderate income; or

(b) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated residential housing for occupancy by them will cause to be vacated existing sanitary, decent and safe residential housing available at prices or rentals which persons and families of low and moderate income can afford; or

(c) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated multifamily rental housing or new, rehabilitated or existing home ownership housing in the state for occupancy by them will further

economic growth, increase the housing stock in the state by eliminating substandard or deteriorating housing conditions, or provide additional housing opportunities in the state; or

(d) Persons who because of age or physical disability are found and determined by the Housing Development Fund, by resolution, to require residential housing of a special location or design in order to provide them with sanitary, decent and safe residential housing; or

(e) Persons and families for whom, as found and determined by the Housing Development Fund by resolution, construction of new or rehabilitated residential housing in some designated area or areas of the state is necessary for the purpose of retaining in, or attracting to, such area or areas qualified manpower resources essential to modern mining, industrial and commercial operations and development in such area or areas.

~~(4)~~ (5) 'Federally insured construction loan' means a construction loan for land development, residential housing or nonresidential projects, which are either secured or guaranteed, in whole or in part, by a federally insured mortgage or a federal mortgage, or which are insured or guaranteed, in whole or in part, by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such loan.

~~(5)~~ (6) 'Federally insured mortgage' means a mortgage loan for land development, residential housing or nonresidential projects with a commitment by the United States or an instrumentality thereof to insure or guarantee such a mortgage.

~~(6)~~ (7) 'Federal mortgage' means a mortgage loan for land development, residential housing or nonresidential projects made by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to make such a mortgage loan.

~~(7)~~ (8) 'Housing development fund' means the West Virginia Housing Development Fund heretofore created and established by §31-18-4 of this code.

~~(8)~~ (9) 'Land development' means the process of acquiring land for residential housing construction or nonresidential projects or of making, installing or constructing improvements, including waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas, telephone and telecommunications and electric lines and installations, roads, railroad spurs, docking and shipping facilities, streets, curbs, gutters, sidewalks, drainage and flood control facilities, whether on or off the site, which the Housing Development Fund deems necessary or desirable to prepare such land for construction within this state.

~~(9)~~ (10) 'Land development fund' means the land development fund which may be created and established by the Housing Development Fund in accordance with §31-18-20a of this code.

~~(10)~~ (11) 'Minimum bond insurance requirement' means, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future calendar year, of annual debt service of the Housing Development Fund on all outstanding mortgage finance bonds, such annual debt service for any calendar year being the amount of money equal to the aggregate of: (a) All interest payable during such calendar year on such mortgage finance bonds on said date of computation; plus (b) the principal amount of such mortgage finance bonds outstanding which matures during such calendar year, other than mortgage finance bonds for which annual sinking fund payments have been or are to be made in accordance with the resolution authorizing such bonds; plus (c) the amount of all annual sinking fund payments payable during such calendar year with respect to any such mortgage finance bonds, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with

the resolution authorizing such bonds of all such sinking fund payments payable at or after said date of computation.

~~(11)~~ (12) 'Mortgage finance bonds' means bonds issued or to be issued by the Housing Development Fund and secured by a pledge of amounts payable from the mortgage finance bond insurance fund in the manner and to the extent provided in §31-18-20b of this code.

~~(12)~~ (13) 'Mortgage finance bond insurance fund' means the special trust fund created and established in the State Treasury in accordance with §31-18-20b of this code.

~~(13)~~ (14) 'Nonresidential project' means a project in the state, whether or not directly related to the providing of residential housing, determined by the Housing Development Fund as likely to foster and enhance economic growth and development in the area of the state in which such project is developed, for retail, commercial, industrial, community improvement or preservation or other proper purpose, including tourism and recreational housing, land, air or water transportation facilities, facilities for vocational or other training or to provide medical care and other special needs of persons residing in the state, sports complexes and cultural, artistic and other exhibition centers, industrial or commercial projects and facilities, mail order, wholesale and retail sales facilities and other real or personal properties including facilities which are owned or leased by this state, any county or municipality or other public body within the state, and includes, without limitation, the process of acquiring, holding, operating, planning, financing, demolition, construction, renovation, leasing or otherwise disposing of such project or any part thereof or interest therein. Any such project may include appurtenant machinery and equipment.

~~(14)~~ (15) 'Operating loan fund' means the operating loan fund which may be created and established by the Housing Development Fund in accordance with §31-18-19 of this code.

~~(15)~~ (16) 'Persons and families of low and moderate income' means persons and families, irrespective of race, creed, national origin or sex, determined by the Housing Development Fund to require such assistance as is made available by this article on account of personal or family income not sufficient to afford sanitary, decent and safe housing, and to be eligible or potentially eligible to occupy residential housing constructed and financed, wholly or in part, with federally insured construction loans, federally insured mortgages, federal mortgages or with other public or private assistance, or with uninsured construction loans, or uninsured mortgage loans, and in making such determination the fund shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs; (b) the size of the family; (c) the cost and condition of housing facilities available; (d) the eligibility of such persons and families for federal housing assistance of any type predicated upon low or moderate income basis; and (e) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing: *Provided*, That to the extent found and determined by the Housing Development Fund, by resolution, to be necessary or appropriate for the purposes of eliminating undesirable social conditions and permanently eliminating slum conditions, the income limitation requirements of this article may be waived as to any persons or families who are eligible to occupy residential housing constructed in whole, or in part, with federally insured construction loans, federally insured mortgages or federal mortgages under housing assistance or mortgage insurance programs of the United States, or an instrumentality thereof, predicated upon any low or moderate income basis.

~~(16)~~ (17) 'Residential housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing for occupancy by eligible persons and families, including, but not limited to, facilities for temporary housing and emergency housing,



nursing homes and intermediate care facilities, and such other nonhousing facilities as may be incidental or appurtenant thereto.

~~(17)~~ (18) 'Special bond insurance commitment fee' means a fee in the amount of one per centum of the total principal amount of each loan which is to be temporarily or permanently financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on each loan purchased or invested in by the Housing Development Fund from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any other source available to the Housing Development Fund for such use: *Provided*, That if the period of time between the first disbursement of proceeds of such loan and the date upon which it is specified that the first repayment of principal of such a loan shall be payable exceeds twelve months, an additional amount computed on the basis of one twelfth of one per centum per month on the total principal amount of such loan over the number of months of such period of time in excess of twelve months shall be included in such fee.

~~(18)~~ (19) 'Special bond insurance premium' means: (i) A fee at the rate of one half of one percent per annum on the outstanding principal balance which the Housing Development Fund shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to the date on which the first installment payment of principal of such a loan is payable and which shall be payable thereafter in monthly installments on the same day of each successive month that installment payments of principal of such a loan are payable; and (ii) with respect to any loan, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, purchased, or invested in with such proceeds, an equivalent amount which the Housing Development Fund shall set aside from payments it receives on such loan or from any other source available to the Housing Development Fund for such use.

~~(19)~~ (20) 'State sinking fund commission' means the commission known as such and continued in existence pursuant to §13-3-1 *et seq.* of this code and any body, board, person or commission which shall, by law, hereafter succeed to the powers and duties of such commission.

~~(20)~~ (21) 'Temporary housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential housing, including, but not limited to, shelters for homeless people, housing for victims of floods and other disasters, shelters for abused or battered persons and their children, housing for families with hospitalized family members, housing for students and student families, and housing for the handicapped and such other nonhousing facilities as may be incidental or appurtenant thereto.

~~(21)~~ (22) 'Uninsured construction loans' means a construction loan for land development, residential housing or nonresidential projects which is not secured by either a federally insured mortgage or a federal mortgage, and which is not insured by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

~~(22)~~ (23) 'Uninsured mortgage' and 'uninsured mortgage loan' means mortgage loans for land development, residential housing or nonresidential projects which are not insured or guaranteed by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

**§31-18-6. Corporate powers.**

The Housing Development Fund is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose, including, but not limited to, the following:

(1) To make or participate in the making of federally insured construction loans to sponsors of land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(2) To make temporary loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable, from the operating loan fund, if created, established, organized and operated in accordance with the provisions of §31-18-19 of this code, to defray development costs to sponsors of land development, residential housing or nonresidential projects which are eligible or potentially eligible for federally insured construction loans, federally insured mortgages, federal mortgages or uninsured construction loans or uninsured mortgage loans;

(3) To make or participate in the making of long-term federally insured mortgage loans to sponsors of land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(4) To establish residential housing and nonresidential and land development projects for counties declared to be in a disaster area by the Federal Emergency Management Agency or other agency or instrumentality of the United States or this state;

(5) To accept appropriations, gifts, grants, bequests and devises and to utilize or dispose of the same to carry out its corporate purpose;

(6) To make and execute contracts, releases, compromises, compositions and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose;

(7) To collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in connection with providing technical, consultative and project assistance services;

(8) To invest any funds not required for immediate disbursement in any of the following securities:

(i) Direct obligations of or obligations guaranteed by the United States of America or for the payment of the principal and interest on which the full faith and credit of the United States of America is pledged;

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for cooperatives; federal intermediate credit banks; federal home loan bank system; export-import bank of the United States; federal land banks; Tennessee valley authority; United States postal service; inter-American development bank; international bank for reconstruction and development; small business administration; Washington metropolitan area transit authority; general services administration; federal financing bank; federal home loan mortgage corporation; student loan marketing association; farmer's home administration; the federal national mortgage association or the government national mortgage association; or any bond, debenture, note, participation certificate

or other similar obligation to the extent such obligations are guaranteed by the government national mortgage association or federal national mortgage association or are issued by any other federal agency and backed by the full faith and credit of the United States of America;

(iii) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes, or project notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(iv) Certificates of deposit, time deposits, investment agreements, repurchase agreements or similar banking arrangements with a member bank or banks of the federal reserve system or a bank the deposits of which are insured by the federal deposit insurance corporation, or its successor, or a savings and loan association or savings bank the deposits of which are insured by the federal savings and loan insurance corporation, or its successor, or government bond dealers reporting to, trading with and recognized as primary dealers by a federal reserve bank: *Provided*, That such investments shall only be made to the extent insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation or to the extent that the principal amount thereof shall be fully collateralized by obligations which are authorized investments for the Housing Development Fund pursuant to this section;

(v) Direct obligations of or obligations guaranteed by the State of West Virginia;

(vi) Direct and general obligations of any other state, municipality or other political subdivision within the territorial United States: *Provided*, That at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond-rating agency;

(vii) Any bond, note, debenture or annuity issued by any corporation organized and operating within the United States: *Provided*, That such corporation shall have a minimum net worth of \$15 million and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: *Provided, however*, That: (1) Such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements; and (2) such corporation has not defaulted in the payment of principal or interest on any of its outstanding funded indebtedness during its preceding ten fiscal years; and (3) the bonds, notes or debentures of such corporation to be purchased are rated 'AA' or the equivalent thereof or better than 'AA' or the equivalent thereof by at least two or more nationally recognized rating services such as Standard and Poor's, Dunn & Bradstreet, Best's or Moody's;

(viii) If entered into solely for the purpose of reducing investment, interest rate, liquidity or other market risks in relation to obligations issued or to be issued or owned or to be owned by the Housing Development Fund, options, futures contracts (including index futures but exclusive of commodities futures, options or other contracts), standby purchase agreements or similar hedging arrangements listed by a nationally recognized securities exchange or a corporation described in paragraph (vii) above;

(ix) Certificates, shares or other interests in mutual funds, unit trusts or other entities registered under section eight of the United States Investment Company Act of 1940, but only to the extent that the terms on which the underlying investments are to be made prevent any more than a minor portion of the pool which is being invested in to consist of obligations other than investments permitted pursuant to this section; and

(x) To the extent not inconsistent with the express provisions of this section, obligations of the West Virginia State Board of Investments or any other obligation authorized as an investment for the West Virginia State Board of Investments under §12-6-1 *et seq.* of this code or for a public housing authority under §16-15-1 *et seq.* of this code;

(9) To sue and be sued;

(10) To have a seal and alter the same at will;

(11) To make, and from time to time, amend and repeal bylaws and rules and regulations not inconsistent with the provisions of this article;

(12) To appoint such officers, employees and consultants as it deems advisable and to fix their compensation and prescribe their duties;

(13) To acquire, hold and dispose of real and personal property for its corporate purposes;

(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization;

(15) To acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the Housing Development Fund has an interest and to sell, transfer and convey any such property to a buyer and, in the event of such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

(16) To purchase or sell, at public or private sale, any mortgage or other negotiable instrument or obligation securing a construction, rehabilitation, improvement, land development, mortgage or temporary loan;

(17) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(18) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other terms, of mortgage loan, mortgage loan commitment, construction loan, rehabilitation loan, improvement loan, temporary loan, contract or agreement of any kind to which the Housing Development Fund is a party;

(19) To make and publish rules and regulations respecting its federally insured mortgage lending, uninsured mortgage lending, construction lending, rehabilitation lending, improvement lending and lending to defray development costs and any such other rules and regulations as are necessary to effectuate its corporate purpose;

(20) To borrow money to carry out and effectuate its corporate purpose and to issue its bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its corporate purpose, except that no notes shall be issued to mature more than ten years from date of issuance and no bonds shall be issued to mature more than fifty years from date of issuance;

(21) To issue renewal notes, to issue bonds to pay notes and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no such renewal notes shall be issued to mature more than ten

years from date of issuance of the notes renewed and no such refunding bonds shall be issued to mature more than fifty years from the date of issuance;

(22) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption or payment of the notes or bonds to be refunded;

(23) To make grants and provide technical services to assist in the purchase or other acquisition, planning, processing, design, construction, or rehabilitation, improvement or operation of residential housing, nonresidential projects or land development: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining or increasing employment or the tax base;

(24) To provide project assistance services for residential housing, nonresidential projects and land development, including, but not limited to, management, training and social and other services;

(25) To promote research and development in scientific methods of constructing low cost land development, residential housing or nonresidential projects of high durability including grants, loans or equity contributions for research and development purposes: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining and increasing employment and the tax base;

(26) With the proceeds from the issuance of notes or bonds of the Housing Development Fund, including, but not limited to, mortgage finance bonds, or with other funds available to the Housing Development Fund for such purpose, to participate in the making of or to make loans to mortgagees approved by the Housing Development Fund and take such collateral security therefor as is approved by the Housing Development Fund and to invest in, purchase, acquire, sell or participate in the sale of, or take assignments of, notes and mortgages, evidencing loans for the construction, rehabilitation, improvement, purchase or refinancing of land development, residential housing or nonresidential projects in this state: *Provided*, That the Housing Development Fund shall obtain such written assurances as shall be satisfactory to it that the proceeds of such loans, investments or purchases will be used, as nearly as practicable, for the making of or investment in long-term federally insured mortgage loans or federally insured construction loans, uninsured mortgage loans or uninsured construction loans, for land development, residential housing or nonresidential projects or that other moneys in an amount approximately equal to such proceeds shall be committed and used for such purpose;

(27) To make or participate in the making of uninsured construction loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(28) To make or participate in the making of long-term uninsured mortgage loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(29) To obtain options to acquire real property, or any interest therein, in its own name, by purchase, or lease or otherwise, which is found by the Housing Development Fund to be suitable, or potentially suitable, as a site, or as part of a site, for land development or the construction of

residential housing or nonresidential projects; to hold such real property or to acquire by purchase or otherwise and to transfer by sale or otherwise any ownership or equity interests in any other legal entity which holds such real property; to finance the performance of land development, residential housing or nonresidential projects on or in connection with any such real property or to perform land development, residential housing or nonresidential projects on or in connection with any such real property; to own, operate and sponsor or participate in the sponsorship of land development, residential housing or nonresidential projects; or to sell, transfer and convey, lease or otherwise dispose of such real property, or lots, tracts or parcels of such real property, for such prices, upon such terms, conditions and limitations, and at such time or times as the Housing Development Fund shall determine;

(30) To make loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable from the land development fund, if created, established, organized and operated in accordance with the provisions of §31-18-20a of this code, to sponsors of land development, to defray development costs and other costs of land development;

(31) To exercise all of the rights, powers and authorities of a public housing authority as set forth and provided in §16-15-1 *et seq.* of this code, in any area or areas of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(32) To provide assistance to urban renewal projects in accordance with the provisions of §16-18-28 of this code and in so doing to exercise all of the rights, powers and authorities granted in this article or in said article, in and for any communities of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(33) To make or participate in the making of loans for the purpose of rehabilitating or improving existing residential and temporary housing or nonresidential projects, or to owners of existing residential or temporary housing for occupancy by eligible persons and families for the purpose of rehabilitating or improving such residential or temporary housing or nonresidential projects and, in connection therewith, to refinance existing loans involving the same property. Such loans shall be made only upon determination by the Housing Development Fund that rehabilitation or improvement loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(34) Whenever the Housing Development Fund deems it necessary in order to exercise any of its powers set forth in subdivision (29) of this section, and upon being unable to agree with the owner or owners of real property or interest therein sought to be acquired by the fund upon a price for acquisition of private property not being used or operated by the owner in the production of agricultural products, to exercise the powers of eminent domain in the acquisition of such real property or interest therein in the manner provided under §54-1-1 *et seq.* of this code, and the purposes set forth in said subdivision are hereby declared to be public purposes for which private property may be taken. For the purposes of this section, the determination of 'use or operation by the owner in the production of agricultural products' means that the principal use of such real estate is for the production of food and fiber by agricultural production other than forestry, and the fund shall not initiate or exercise any powers of eminent domain without first receiving an opinion in writing from both the Governor and the commissioner of agriculture of this state that at the time the fund had first attempted to acquire such real estate or interest therein, such real estate or interest therein was not in fact being used or operated by the owner in the production of agricultural products;

(35) To acquire, by purchase or otherwise, and to hold, transfer, sell, assign, pool or syndicate, or participate in the syndication of, any loans, notes, mortgages, securities or debt instruments

collateralized by mortgages or interests in mortgages or other instruments evidencing loans or equity interests in or for the construction, rehabilitation, improvement, renovation, purchase or refinancing of land development, residential housing and nonresidential projects in this state; ~~and~~

(36) To form one or more nonprofit corporations, whose board of directors shall be the same as the board of directors of the Housing Development Fund, which shall be authorized and empowered to carry out any or all of the corporate powers or purposes of the Housing Development Fund, including, without limitation, acquiring limited or general partnership interests and other forms of equity ownership;

(37) To receive and compile data into an electronic database and make available the raw mortgage foreclosure data that is required to be reported to county clerks by trustees pursuant to the provisions of §38-1-8a of this code, including all data that has been received by the banking commissioner pursuant to §31A-2-4c(a) of this code, as of the effective date of the effective date of the amendments made to said section during the regular session of the 2010 Legislature. This information shall be periodically forwarded by county clerks to the Housing Development Fund, in accordance with the provisions of §44-13-4a of this code; and

(38) Provide funding to increase the capacity of nonprofit community housing organizations to serve their communities.

#### **§31-18-20d. Affordable Housing Fund.**

(a) There is hereby created and established a special fund to be designated as the 'Affordable Housing Fund' into which the Housing Development Fund shall deposit the funds received pursuant to §11-15-4c and §11-22-2 of this code. Such funds shall be governed, administered and accounted for by the Housing Development Fund as a special purpose account separate and distinct from any other moneys, fund or funds owned or managed by the Housing Development Fund. Additionally, the Housing Development Fund shall deposit an additional amount at least equal to the funds received pursuant to §31-18-29 of this code. The moneys deposited in such fund may be invested and reinvested by the Housing Development Fund as authorized under §31-18-6(8) of this code.

(b) The Housing Development Fund shall use the moneys from the Affordable Housing Fund to make, or participate in the making of, loans or grants for eligible activities that shall include, but not be limited to:

(1) Providing funds for new construction, rehabilitation, repair or acquisition of housing to assist low or moderate income citizens including land and land improvements;

(2) Providing matching funds for federal housing moneys requiring a local or state match;

(3) Providing funds for administrative costs for housing assistance programs or nonprofit organizations eligible for funding pursuant to subsection (c) of this section if the grants or loans provided will substantially increase the recipient's access to housing funds or increase its capacity to supply affordable housing;

(4) Providing loan guarantees and other financial mechanisms to facilitate the provision of housing products or services;

(5) Providing funds for down payments, closing costs, foreclosure prevention, home ownership counseling and security bonds which facilitate the construction, rehabilitation, repair or acquisition of housing by low to moderate income citizens;

(6) Providing risk underwriting products not provided by private sector entities to facilitate broader accessibility of citizens to other federal or state housing funds or loan programs. The products shall be established using professional risk underwriting standards and separate corporate vehicles may be created and capitalized by the Housing Development Fund to provide the products; and

(7) Providing start-up funds for initial operational expenses of local government programs to reduce substandard housing or inappropriate land use patterns.

(c) Organizations eligible for funding from the Affordable Housing Fund include: (1) Local governments; (2) local government housing authorities; (3) nonprofit organizations recognized as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as amended, codified in 26 U.S.C. § 501(c)(3), and which are organized and operated exclusively for charitable purposes within the meaning of that section, and in accordance with those purposes provide assistance to low or moderate income citizens of this state; and (4) regional or statewide housing assistance organizations that have been recognized as exempt under Section 501(c)(3) of the Internal Revenue Code, as amended, and which provide assistance to low and moderate income or low income citizens of this state.

#### **§31-18-22. Termination or dissolution.**

Upon the termination or dissolution, all rights and properties of the Housing Development Fund, including the Operating Loan Fund, the Land Development Fund, ~~and~~ the Mortgage Finance Bond Insurance Fund, and the Affordable Housing Fund, shall pass to and be vested in the State of West Virginia, subject to the rights of bondholders, lienholders and other creditors.

#### **§31-18-24. Annual audit; reports to Joint Committee on Government and Finance; information to joint committee or legislative Auditor.**

The Housing Development Fund shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to its receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations, including those of the operating loan fund, the land development fund, and the mortgage finance bond insurance fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Speaker of the House of Delegates, the President of the Senate and the majority and minority leaders of both houses.

In addition to the foregoing annual audit report, the Housing Development Fund shall also render every six months to the Joint Committee on Government and Finance a report setting forth in detail a complete analysis of the activities, indebtedness, receipts and financial affairs of such fund and the operating loan fund, the land development fund, affordable housing fund and the mortgage finance bond insurance fund. Upon demand, the Housing Development Fund shall also submit to the Joint Committee on Government and Finance or the Legislative Auditor any other information requested by such committee or the Legislative Auditor.

#### **§31-18-29. Dissolution of West Virginia Affordable Housing Trust Fund.**

Upon termination of the West Virginia Affordable Housing Trust Fund, the Housing Development Fund shall provide for the payment of all debts, obligations, or expenses of the Affordable Housing Trust Fund, and all assets remaining in the Affordable Housing Trust Fund shall be transferred to the West Virginia Housing Development Fund.



**ARTICLE 18D. WEST VIRGINIA AFFORDABLE HOUSING TRUST FUND.****§31-18D-1. Short title.**

[Repealed.]

**§31-18D-2. Legislative finding and purpose.**

[Repealed.]

**§31-18D-3. Definitions.**

[Repealed.]

**§31-18D-4. Affordable housing trust fund.**

[Repealed.]

**§31-18D-5. Housing Trust Fund Board of Directors.**

[Repealed.]

**§31-18D-6. Powers and responsibilities of the board.**

[Repealed.]

**§31-18D-7. Eligible activities; eligible organizations.**

[Repealed.]

**§31-18D-8. Corporate powers.**

[Repealed.]

**§31-18D-9. Applications and selection criteria.**

[Repealed.]

**§31-18D-10. Documentary materials concerning financial or personal information; confidentiality.**

[Repealed.]

**§31-18D-11. Conflicts.**

[Repealed.]

**§31-18D-12. Tax exemption.**

[Repealed.]

**§31-18D-13. Annual report.**

[Repealed.]

**§31-18D-14. Exemption from certain requirements; audit**

[Repealed.]

**§31-18D-15. Dissolution or liquidation of trust fund.**

[Repealed.]”

The bill was then ordered to third reading.

**S. B. 282**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3. PURCHASING DIVISION.****§5A-3-3. Powers and duties of Director of Purchasing.**

The director, under the direction and supervision of the secretary, is the executive officer of the Purchasing Division and has the power and duty to:

- (1) Direct the activities and employees of the Purchasing Division;
- (2) Ensure that the purchase of or contract for commodities and services are based, whenever possible, on competitive bid;
- (3) Purchase or contract for, in the name of the state, the commodities, services, and printing required by the spending units of the state government;
- (4) Apply and enforce standard specifications established in accordance with §5A-3-5 of this code as hereinafter provided;
- (5) Transfer to or between spending units or sell commodities that are surplus, obsolete, or unused as hereinafter provided;
- (6) Have charge of central storerooms for the supply of spending units as the director considers advisable;
- (7) Establish and maintain a laboratory for the testing of commodities and make use of existing facilities in state institutions for that purpose as hereinafter provided as the director considers advisable;
- (8) Suspend the right and privilege of a vendor to bid on state purchases when the director has evidence that the vendor has violated any of the provisions of the purchasing law or the rules and regulations of the director;

(9) Examine the provisions and terms of every contract entered into for and on behalf of the State of West Virginia that impose any obligation upon the state to pay any sums of money for commodities or services and approve the contract as to such provisions and terms; and the duty of examination and approval herein set forth does not supersede the responsibility and duty of the Attorney General to approve the contracts as to form: *Provided*, That the provisions of this subdivision do not apply in any respect whatever to construction or repair contracts entered into by the Division of Highways of the Department of Transportation or to construction or reclamation contracts entered into by the Department of Environmental Protection: *Provided, however*, That the provisions of this subdivision do not apply in any respect whatsoever to contracts entered into by the University of West Virginia Board of Trustees or by the board of directors of the state college system, except to the extent that such boards request the facilities and services of the director under the provisions of this subdivision: *Provided further*, That the provisions of this subdivision do not apply to the West Virginia State Police and the West Virginia Office of Laboratory Services: *And provided further, That the provisions of this subdivision do not apply to joint funding agreements with the United States Geological Survey.*

(10) Assure that the specifications and descriptions in all solicitations are prepared so as to provide all potential suppliers-vendors who can meet the requirements of the state an opportunity to bid and to assure that the specifications and descriptions do not favor a particular brand or vendor. If the director determines that any such specifications or descriptions as written favor a particular brand or vendor or if it is decided, either before or after the bids are opened, that a commodity or service having different specifications or quality or in different quantity can be bought, the director may rewrite the solicitation and the matter shall be rebid; and

(11) Issue a notice to cease and desist to a spending unit when the director has credible evidence that a spending unit has violated competitive bidding or other requirements established by this article and the rules promulgated hereunder. Failure to abide by the notice may result in penalties set forth in §5A-3-17 of this code.”

The bill was then ordered to third reading.

**S. B. 299**, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE, AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan, and group life and accidental death insurance plan; rules for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.**

(a) The agency shall establish a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans and a group life and accidental death insurance plan or plans for those employees herein made eligible and establish and promulgate rules for the administration of these plans subject to the limitations contained in this article. These plans shall include:

(1) Coverages and benefits for x-ray and laboratory services in connection with mammograms when medically appropriate and consistent with current guidelines from the United States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists; and a test for the human papilloma virus (HPV) when medically appropriate and consistent with current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, when performed for cancer screening or diagnostic services on a woman age 18 or over;

(2) Annual checkups for prostate cancer in men age 50 and over;

(3) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation;

(4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed healthcare facility for a mother and her newly born infant for the length of time which the attending physician considers medically necessary for the mother or her newly born child. No plan may deny payment for a mother or her newborn child prior to 48 hours following a vaginal delivery or prior to 96 hours following a caesarean section delivery if the attending physician considers discharge medically inappropriate;

(5) For plans which provide coverages for post-delivery care to a mother and her newly born child in the home, coverage for inpatient care following childbirth as provided in subdivision (4) of this subsection if inpatient care is determined to be medically necessary by the attending physician. These plans may include, among other things, medicines, medical equipment, prosthetic appliances, and any other inpatient and outpatient services and expenses considered appropriate and desirable by the agency; and

(6) Coverage for treatment of serious mental illness:

(A) The coverage does not include custodial care, residential care, or schooling. For purposes of this section, 'serious mental illness' means an illness included in the American Psychiatric Association's diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v) anxiety disorders; and (vi) anorexia and bulimia. With regard to a covered individual who has not yet attained the age of 19 years, 'serious mental illness' also includes attention deficit hyperactivity disorder, separation anxiety disorder, and conduct disorder.

(B) Notwithstanding any other provision in this section to the contrary, if the agency demonstrates that its total costs for the treatment of mental illness for any plan exceeds two percent of the total costs for such plan in any experience period, then the agency may apply whatever additional cost-containment measures may be necessary in order to maintain costs below two percent of the total costs for the plan for the next experience period. These measures may include, but are not limited to, limitations on inpatient and outpatient benefits.

(C) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness and it may use

recognized healthcare quality and cost management tools including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, implementation of cost-containment measures, preauthorization for certain treatments, setting coverage levels, setting maximum number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks, and using patient cost sharing in the form of copayments, deductibles, and coinsurance.

(7) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia.

(B) A child who is 12 years of age or younger with documented phobias or with documented mental illness and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth, or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(8) (A) Any plan issued or renewed on or after January 1, 2012, shall include coverage for diagnosis, evaluation, and treatment of autism spectrum disorder in individuals ages 18 months to 18 years. To be eligible for coverage and benefits under this subdivision, the individual must be diagnosed with autism spectrum disorder at age eight or younger. Such plan shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist and in accordance with a treatment plan developed from a comprehensive evaluation by a certified behavior analyst for an individual diagnosed with autism spectrum disorder.

(B) The coverage shall include, but not be limited to, applied behavior analysis which shall be provided or supervised by a certified behavior analyst. The annual maximum benefit for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per individual for three consecutive years from the date treatment commences. At the conclusion of the third year, coverage for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$2,000 per month, until the individual reaches 18 years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the individual. This subdivision does not limit, replace or affect any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U. S. C. §1400 *et seq.*, as amended from time to time or other publicly funded programs. Nothing in this subdivision requires reimbursement for services provided by public school personnel.

(C) The certified behavior analyst shall file progress reports with the agency semiannually. In order for treatment to continue, the agency must receive objective evidence or a clinically supportable statement of expectation that:

(i) The individual's condition is improving in response to treatment;

(ii) A maximum improvement is yet to be attained; and

(iii) There is an expectation that the anticipated improvement is attainable in a reasonable and generally predictable period of time.

(D) On or before January 1 each year, the agency shall file an annual report with the Joint Committee on Government and Finance describing its implementation of the coverage provided pursuant to this subdivision. The report shall include, but not be limited to, the number of individuals in the plan utilizing the coverage required by this subdivision, the fiscal and administrative impact of the implementation and any recommendations the agency may have as to changes in law or policy related to the coverage provided under this subdivision. In addition, the agency shall provide such other information as required by the Joint Committee on Government and Finance as it may request.

(E) For purposes of this subdivision, the term:

(i) 'Applied behavior analysis' means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(ii) 'Autism spectrum disorder' means any pervasive developmental disorder including autistic disorder, Asperger's Syndrome, Rett Syndrome, childhood disintegrative disorder, or Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(iii) 'Certified behavior analyst' means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.

(iv) 'Objective evidence' means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

(F) To the extent that the application of this subdivision for autism spectrum disorder causes an increase of at least one percent of actual total costs of coverage for the plan year, the agency may apply additional cost containment measures.

(G) To the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of insurance plans offered by the Public Employees Insurance Agency.

(9) For plans that include maternity benefits, coverage for the same maternity benefits for all individuals participating in or receiving coverage under plans that are issued or renewed on or after January 1, 2014: *Provided*, That to the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of a health benefit plan when the plan is offered in this state.

(10) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract.

This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 et seq. or §30-14-1 et seq. of this code:

(i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by paragraph (A) of this subdivision shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, 'medically necessary foods' or 'medical foods' shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or SOY.

(b) The agency shall, with full authorization, make available to each eligible employee, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance as established under the rules of the agency. In addition, each employee is entitled to have his or her spouse and dependents, as defined by the rules of the agency, included in the optional coverage, at full cost to the employee, for each eligible dependent.

(c) The finance board may cause to be separately rated for claims experience purposes:

(1) All employees of the State of West Virginia;

(2) All teaching and professional employees of state public institutions of higher education and county boards of education;

(3) All nonteaching employees of the Higher Education Policy Commission, West Virginia Council for Community and Technical College Education and county boards of education; or

(4) Any other categorization which would ensure the stability of the overall program.

(d) The agency shall maintain the medical and prescription drug coverage for Medicare- eligible retirees by providing coverage through one of the existing plans or by enrolling the Medicare-eligible retired employees into a Medicare-specific plan, including, but not limited to, the Medicare/Advantage Prescription Drug Plan. If a Medicare-specific plan is no longer available or advantageous for the agency and the retirees, the retirees remain eligible for coverage through the agency.

**§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance, and other accidental death insurance; mandated benefits; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.**

(a) The director is hereby given exclusive authorization to execute such contract or contracts as are necessary to carry out the provisions of this article and to provide the plan or plans of group hospital and surgical insurance coverage, group major medical insurance coverage, group prescription drug insurance coverage, and group life and accidental death insurance coverage selected in accordance with the provisions of this article, such contract or contracts to be executed with one or more agencies, corporations, insurance companies or service organizations licensed to sell group hospital and surgical insurance, group major medical insurance, group prescription drug insurance and group life and accidental death insurance in this state.

(b) The group hospital or surgical insurance coverage and group major medical insurance coverage herein provided shall include coverages and benefits for x-ray and laboratory services in connection with mammogram and pap smears when performed for cancer screening or diagnostic services and annual checkups for prostate cancer in men age 50 and over. Such benefits shall include, but not be limited to, the following:

(1) Mammograms when medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force;

(2) A pap smear, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, for women age 18 and over;

(3) A test for the human papilloma virus (HPV) for women age 18 or over, when medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists for women age 18 and over;

(4) A checkup for prostate cancer annually for men age 50 or over; and

(5) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation.

(6) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is either an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia; or

(B) A child who is 12 years of age or younger with documented phobias, or with documented mental illness, and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(7) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract.



This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by paragraph (A) of this subdivision shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, 'medically necessary foods' or 'medical foods' shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(c) The group life and accidental death insurance herein provided shall be in the amount of \$10,000 for every employee. The amount of the group life and accidental death insurance to which an employee would otherwise be entitled shall be reduced to \$5,000 upon such employee attaining age sixty-five.

(d) All of the insurance coverage to be provided for under this article may be included in one or more similar contracts issued by the same or different carriers.

(e) The provisions of §5A-3-1 *et seq.* of this code, relating to the Division of Purchasing of the Department of Finance and Administration, shall not apply to any contracts for any insurance coverage or professional services authorized to be executed under the provisions of this article. Before entering into any contract for any insurance coverage, as authorized in this article, the director shall invite competent bids from all qualified and licensed insurance companies or carriers, who may wish to offer plans for the insurance coverage desired: *Provided*, That the director shall negotiate and contract directly with healthcare providers and other entities, organizations and vendors in order to secure competitive premiums, prices and other financial advantages. The director shall deal directly with insurers or healthcare providers and other entities, organizations and vendors in presenting specifications and receiving quotations for bid purposes. No commission or finder's fee, or any combination thereof, shall be paid to any individual or agent; but this shall not preclude an underwriting insurance company or companies, at their own expense, from appointing a licensed resident agent, within this state, to service the companies' contracts awarded under the provisions of this article. Commissions reasonably related to actual service rendered for the agent or agents may be paid by the underwriting company or companies: *Provided, however*, That in no event shall payment be made to any agent or agents when no actual services are rendered or performed. The director shall award the contract or contracts on a competitive basis. In awarding the contract or contracts the director shall take into account the experience of the offering agency, corporation, insurance company, or service organization in the group hospital and surgical insurance field, group major medical insurance field, group prescription drug field, and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the director

may employ the services of impartial, professional insurance analysts or actuaries or both. Any contract executed by the director with a selected carrier shall be a contract to govern all eligible employees subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier from soliciting employees covered hereunder to purchase additional hospital and surgical, major medical or life and accidental death insurance coverage.

(f) The director may authorize the carrier with whom a primary contract is executed to reinsure portions of the contract with other carriers which elect to be a reinsurer and who are legally qualified to enter into a reinsurance agreement under the laws of this state.

(g) Each employee who is covered under any contract or contracts shall receive a statement of benefits to which the employee, his or her spouse and his or her dependents are entitled under the contract, setting forth the information as to whom the benefits are payable, to whom claims shall be submitted and a summary of the provisions of the contract or contracts as they affect the employee, his or her spouse and his or her dependents.

(h) The director may at the end of any contract period discontinue any contract or contracts it has executed with any carrier and replace the same with a contract or contracts with any other carrier or carriers meeting the requirements of this article.

(i) The director shall provide by contract or contracts entered into under the provisions of this article the cost for coverage of children's immunization services from birth through age sixteen years to provide immunization against the following illnesses: Diphtheria, polio, mumps, measles, rubella, tetanus, hepatitis-b, hemophilia influenzae-b, and whooping cough. Additional immunizations may be required by the Commissioner of the Bureau for Public Health for public health purposes. Any contract entered into to cover these services shall require that all costs associated with immunization, including the cost of the vaccine, if incurred by the healthcare provider, and all costs of vaccine administration be exempt from any deductible, per visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other healthcare services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

## CHAPTER 33. INSURANCE.

### ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

#### §33-15-4p. Coverage for amino acid-based formulas.

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 et seq. or §30-14-1 et seq. of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, 'medically necessary foods' or 'medical foods' shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

## **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

### **§33-16-3bb. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, 'medically necessary foods' or 'medical foods' shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

## **ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.**

### **§33-24-7q. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, 'medically necessary foods' or 'medical foods' shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

## **ARTICLE 25. HEALTHCARE CORPORATION.**

### **§33-25-8n. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, 'medically necessary foods' or 'medical foods' shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.****§33-25A-8p. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 et seq. or §30-14-1 et seq. of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply persons with an intolerance for lactose or soy.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 347**, Relating to operation of motorboats; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Hanshaw, the bill was amended on page two, section eleven, line twenty-three, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

On page two, section twelve, line one, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

On page four, section twelve, line forty-seven, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

And,

On page ten, section fourteen, line 5, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 359**, Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 461**, Extending time to file petition for motor fuel excise tax refund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on pages one through five, by striking out section nine in its entirety.

On page six, section thirty-one, lines nine and ten, by striking out “§11-14C-9(c)” and inserting in lieu thereof “§11-14C-9(c)(15)”.

On page seven, section thirty-one, line thirty-eight, by striking out “§11-14C-9(c) or §11-14C-9(d)” and inserting in lieu thereof “§11-14C-9(c)(15)”.

On page seven, section thirty-one, line forty-two, after “14C-9(c)(6) of this code”, by striking out the comma and inserting in lieu thereof the word “and”.

On page seven, section thirty-one, line forty-four, after the words “June 30”, by striking out the period and inserting in lieu thereof a colon and the following proviso: “Provided further, That a petition for refund under §11-14C-9(d)(10) of this code shall be filed with the commissioner on or before the last day of January, April, July and October for purchases of motor fuel during the immediately preceding calendar quarter.”

And,

On page seven, section thirty-one, line forty-seven, by striking out “§33-10-14” and inserting in lieu thereof “§11-10-14”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 465**, Relating to mandated reporting of child abuse and neglect; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 475**, Industrial Hemp Development Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.**

**§19-12E-10. Industrial hemp research and development grant fund — fees.**

(a) There is hereby created in the State Treasury the Industrial Hemp Research and Development Grant Fund, referred to in this section as the ‘hemp fund’, that shall be exclusively administered by the Commissioner of Agriculture for the purpose of funding this grant program. The fund consists of fees collected by the commissioner pursuant to subsection (b) of this section and any general fund moneys appropriated to the fund by the Legislature. The moneys in the fund are subject to annual appropriation by the Legislature to the Department of Agriculture for the direct costs associated with implementing this section.

(b) The commissioner shall collect from persons applying for a registration pursuant to this section. The commissioner shall set a fee schedule based on the size and use of the land area on which the person will conduct industrial hemp operations and shall set the fee at a level sufficient to generate the amount of moneys necessary to cover the department's direct costs in implementing this section. The commissioner shall transmit the fees collected pursuant to this section to the State Treasurer for deposit in the fund.

(c) The department shall administer an Industrial Hemp Research and Development Program to private companies and state institutions of higher education to conduct research and development of industrial hemp for commercial purposes. The objectives of the research may include growing industrial hemp to provide breeding strains to aid West Virginia's hemp program and to create West Virginia strains of industrial hemp.

(d) There is hereby created in the State Treasury the Industrial Hemp Research Fund consisting of:

(1) Fees collected by the commissioner pursuant to §19-12E-8 of this code;

(2) Any moneys from foundations, private individuals, or any other funding sources that can be used to expand the scope or time frame of any hemp research authorized pursuant to this article.

## **ARTICLE 16. WEST VIRGINIA SEED LAW.**

### **§19-16-3a. Industrial hemp seed certification program; requirements; fees; rulemaking.**

(a) The commissioner may create and administer an industrial hemp seed certification program to obtain and develop varieties of seeds which meet the purposes and provisions of §19-12E-1 *et seq.* of this code. The program shall be consistent with this article and applicable federal law. This program may include West Virginia landrace cannabis seed varieties. For the purposes of this article, 'West Virginia landrace cannabis seed' means seed from the plant *cannabis sativa* that possesses characteristics of a unique and specialized cannabis seed variety that is present in West Virginia or has been recognized as produced in West Virginia.

(b) Persons or entities, licensed pursuant to §19-12E-1 *et seq.* of this code, may obtain a license for the development of industrial hemp varieties for certification. The commissioner may assess a fee, consistent with the provisions of §19-12E-7 of this code, to operate and administer the seed certification program. The fees shall be deposited in the Agricultural Fees Fund established by §19-1-4c of this code.

(c) The commissioner may promulgate emergency rules and shall propose rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code for the purpose of implementing the provisions of this section."

Whereupon,

Delegate Hanshaw asked and obtained unanimous consent that the amendment be withdrawn.

The bill was then ordered to third reading.

**S. B. 479**, Establishing local government monitoring by Auditor; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 500**, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 543**, Relating to confidentiality of medical records; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 555**, Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 574**, Relating to crime of misrepresentation of military honors; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 575**, Approving additional beds for intermediate care facilities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page five, section nine, lines nine through thirteen, by striking out subdivision (3) in its entirety and inserting in lieu thereof the new subdivision (3), to read as follows:

“(3) Add beds in an intermediate care facility for individuals with an intellectual disability, except that prohibition does not apply to an intermediate care facility for individuals with intellectual disabilities beds approved under the Kanawha County circuit court order of August 3, 1989, civil action number MISC-81-585 issued in the case of E.H. v. Matin, 168 W.V. 248, 284 S.E. 2d 232 (1981) including the 24 beds provided in §16-2D-8(b)(24) of this code; and”.

The bill was then ordered to third reading.

**S. B. 576**, Relating to Patient Injury Compensation Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page four, section one-a, line seventy, preceding the word “his”, by striking out the word “of” and inserting in lieu thereof the word “or”.

On page five, section eleven, line fifteen, by striking out the words “on and”.

On page five, section eleven, line sixteen, after “\$280”, by striking out the semicolon and inserting in lieu thereof a comma and the words “of which \$10 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code” and a semicolon.

On page nine, section twenty-eight-a, line thirty-three, by striking out “§11-1-11(a)(3)” and inserting in lieu thereof “§59-1-11(a)(4)”.

On page nine, section twenty-eight-a, line thirty-four, by striking out “§11-1-11(a)(4)” and inserting in lieu thereof “§59-1-11(a)(5)”.

And,

On page ten, section twenty-eight-a, line forty-six, after “§29-12D-1”, by inserting the words “et seq.”



The bill was then ordered to third reading.

**Com. Sub. for S. B. 582**, Allowing candidate for political party executive committee serve as election official; on second reading, coming up in regular order, was read a second time.

Delegate Hanshaw moved to amend the bill on page one, section twenty-eight, line eleven, immediately following the word “committee”, by inserting the following words “or delegate to the national convention of a political party”.

And,

On page one, section twenty-eight, line twelve, by deleting subsection (4) in its entirety and inserting in lieu thereof the following:

“(4) May not be the parent, child, sibling, or spouse of a candidate on the ballot for any office, other than for district, county, or state political party executive committee or delegate to the national convention of a political party, or an official write-in candidate for any office, other than for district, county, or state political party executive committee or delegate to the national convention of a political party, in the precinct where the official serves” and a semicolon.

#### **Speaker Pro Tempore Overington in the Chair**

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the amendment and passage of Com. Sub. for S. B. 582 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

#### **Mr. Speaker, Mr. Armstead, in the Chair**

Delegate Marcum requested to be excused from voting on the amendment and passage of Com. Sub. for S. B. 582 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The Speaker informed members that if any others had similar Rule 49 requests, any impact on them would be as a member of a class of persons possibly to be affected by the passage of the bill, and they would not be excused from voting. He further stated that any such members wishing to have this noted in the Journal should inform the Clerk, which was done by Delegates Hamrick, Howell, Moye, Overington and Storch.

The amendment was subsequently adopted.

The bill was then ordered to third reading.

**S. B. 584**, Finding certain claims against state to be moral obligations of state; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page ten, subsection (f), subdivision (206), by striking out “Mazaska” and inserting in lieu thereof “Mazeska”.

On page ten, subsection (f), subdivision (210), after “Kenneth”, by inserting “McGee and”.

On page thirteen, subsection (f), subdivision (274), by striking out “\$115.00” and inserting in lieu thereof “\$442.98”.

On page fifteen, subsection (f), subdivision (335), by striking out “\$220.69” and inserting in lieu thereof “\$239.76”.

And,

On page seventeen, after subsection (k), by inserting a new subsection, designated subsection (l), to read as follows:

*“(l) Claim against the Public Service Commission of West Virginia:*

(TO BE PAID FROM SPECIAL REVENUE FUND)

(1) Pullman Power, LLC.....\$204,176.95'

The bill was then ordered to third reading.

**Com. Sub. for S. B. 589**, Relating to issuance of personalized plates for antique motor vehicles; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 590**, Providing special license plate for curing childhood cancer; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 616**, Establishing maximum gross weight for certain wood-bearing trucks; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page three, section eleven, line fifty-eight, after the word “The”, by inserting the word “maximum”.

The bill was then ordered to third reading.

**S. B. 626**, Relating generally to coal mining; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.**

**§22-3-9. Permit application requirements and contents.**

(a) The surface mining permit application shall contain:

(1) The names and addresses of: (A) The permit applicant; (B) the owner of record of the property, surface, and mineral to be mined; (C) the holders of record of any leasehold interest in the property; (D) any purchaser of record of the property under a real estate contract; (E) the operator, if different

from the applicant; and (F) if any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent;

(2) The names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area: *Provided*, That all residents living on property contiguous to the proposed permit area shall be notified by the applicant, by registered or certified mail, of such application on or before the first day of publication of the notice provided for in §22-3-9(a)(6) of this code;

(3) A statement of any current surface mining permits held by the applicant in the state and the permit number and each pending application;

(4) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: The names and addresses of every officer, partner, resident agent, director or person performing a function similar to a director, together with the names and addresses of any person owning of record 10 percent or more of any class of voting stock of the applicant; and a list of all names under which the applicant, officer, director, partner, or principal shareholder previously operated a surface mining operation in the United States within the five-year period preceding the date of submission of the application;

(5) A statement of whether the applicant, or any officer, partner, director, principal shareholder of the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever been an officer, partner, director, or principal shareholder in a company which has ever held a federal or state mining permit which in the five-year period prior to the date of submission of the application has been permanently suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(6) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed permit area at least once a week for four successive weeks on a form and in a manner prescribed by the secretary, which manner may be electronic. The advertisement shall contain, in abbreviated form, the information required by this section including the ownership and map of the tract location and boundaries of the proposed site so that the proposed operation is readily locatable by local residents, the location of the office of the ~~division~~ department where the application is available for public inspection, and stating that written protests will be accepted by the ~~director~~ secretary until a certain date which is at least 30 days after the last publication of the applicant's advertisement;

(7) A description of the type and method of surface mining operation that exists or is proposed, the engineering techniques used or proposed, and the equipment used or proposed to be used;

(8) The anticipated starting and termination dates of each phase of the surface mining operation and the number of acres of land to be affected;

(9) A description of the legal documents upon which the applicant's legal right to enter and conduct surface mining operations on the proposed permit area is based and whether that right is the subject of pending court litigation: *Provided*, That nothing in this article may be construed as vesting in the ~~director~~ secretary the jurisdiction to adjudicate property-rights disputes;

(10) The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality

of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the ~~director~~ secretary of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area, and particularly upon water availability: *Provided*, That this determination is not required until ~~such~~ the time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency or, if existing and in the possession of the applicant, from the applicant: *Provided, however*, That the permit application shall not be approved until the information is available and is incorporated into the application;

(12) Accurate maps to an appropriate scale clearly showing: (A) The land to be affected as of the date of application; (B) the area of land within the permit area upon which the applicant has the legal right to enter and conduct surface mining operations; and (C) all types of information set forth on enlarged topographical maps of the United States geological survey of a scale of 1:24,000 or larger, including all man-made features and significant known archaeological sites existing on the date of application. In addition to other things specified by the ~~director~~ secretary, the map shall show the boundary lines and names of present owners of record of all surface areas abutting the proposed permit area and the location of all structures within 1,000 feet of the proposed permit area;

(13) Cross-section maps or plans of the proposed affected area, including the actual area to be mined, prepared by, or under the direction of, and certified by a person approved by the ~~director~~ secretary, showing pertinent elevation and location of test borings or core samplings, where required by the ~~director~~ secretary, and depicting the following information: (A) The nature and depth of the various strata or overburden; (B) the location of subsurface water, if encountered, and its quality; (C) the nature and thickness of any coal or rider seams above the seam to be mined; (D) the nature of the stratum immediately beneath the coal seam to be mined; (E) all mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected; (F) existing or previous surface mining limits; (G) the location and extent of known workings of any underground mines, including mine openings to the surface; (H) the location of any significant aquifers; (I) the estimated elevation of the water table; (J) the location of spoil, waste, or refuse areas and topsoil preservation areas; (K) the location of all impoundments for waste or erosion control; (L) any settling or water treatment facility or drainage system; (M) constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and (N) adequate profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

(14) A statement of the result of test borings or core samples from the permit area, including: (A) Logs of the drill holes; (B) the thickness of the coal seam to be mined and analysis of the chemical and physical properties of the coal; (C) the sulfur content of any coal seam; (D) chemical analysis of potentially acid or toxic forming sections of the overburden; and (E) chemical analysis of the stratum lying immediately underneath the coal to be mined: *Provided*, That the provisions of this subdivision may be waived by the ~~director~~ secretary with respect to the specific application by a written determination that such requirements are unnecessary;

(15) For those lands in the permit application which a reconnaissance inspection suggests may be prime farmlands, a soil survey shall be made or obtained according to standards established by the secretary Commissioner of Agriculture in order to confirm the exact location of ~~such~~ the prime farmlands;

(16) A reclamation plan as presented in §22-3-10 of this code;

(17) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available to any person with an interest who is or may be adversely affected: *Provided*, That information which pertains only to the analysis of the chemical and physical properties of the coal, except information regarding mineral or elemental content which is potentially toxic to the environment, shall be kept confidential and not made a matter of public record;

(18) When requested by the ~~director~~ secretary, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges; and

(19) Other information that may be required by rules reasonably necessary to effectuate the purposes of this article.

(b) If the ~~director~~ secretary finds that the probable total annual production at all locations of any coal surface mining operator will not exceed 300,000 tons, the determination of probable hydrologic consequences including the engineering analyses and designs necessary as required by this article or rules promulgated thereunder; the development of cross-section maps and plans as required by this article or rules promulgated thereunder; the geologic drilling and statement of results of test borings and core samplings as required by this article or rules promulgated thereunder; preblast surveys required by this article or rules promulgated thereunder; the collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by this article or rules promulgated thereunder; and the collection of archaeological and historical information required by this article and rules promulgated thereunder and any other archaeological and historical information required by the federal Department of the Interior and the preparation of plans that may be necessitated thereby shall, upon the written request of the operator, be performed by a qualified public or private laboratory designated by the ~~director~~ secretary and a reasonable cost of the preparation of ~~such~~ the determination and statement shall be assumed by the ~~division~~ department from funds provided by the United States Department of the Interior pursuant to the federal Surface Mining Control and Reclamation Act of 1977, as amended.

(c) Before the first publication of the applicant's advertisement as provided in this section, each applicant for a surface mining permit shall file, except for that information pertaining to the coal seam itself, a copy of the application for public inspection in the nearest office of the ~~division~~ department as specified in the applicant's advertisement.

(d) Each applicant for a permit shall be required to submit to the ~~director~~ secretary as a part of the permit application a certificate issued by an insurance company authorized to do business in this state covering the surface mining operation for which the permit is sought, or evidence that the applicant has satisfied state self-insurance requirements. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations, including use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

(e) Each applicant for a surface mining permit shall submit to the ~~director~~ secretary as part of the permit application a blasting plan where explosives are to be used, which shall outline the procedures and standards by which the operator will meet the provisions of the blasting performance standards.

(f) The applicant shall file, as part of the permit application, a schedule listing all notices of violation, bond forfeitures, permit revocations, cessation orders, or permanent suspension orders resulting from a violation of the federal Surface Mining Control and Reclamation Act of 1977, as amended, this article or any law or regulation of the United States or any department or agency of any state pertaining to air or environmental protection received by the applicant in connection with any surface mining operation during the three-year period prior to the date of application, and indicating the final resolution of any notice of violation, forfeiture, revocation, cessation, or permanent suspension.

(g) Within five working days of receipt of an application for a permit, the ~~director~~ secretary shall notify the operator in writing, stating whether the application is administratively complete and whether the operator's advertisement may be published. If the application is not administratively complete, the ~~director~~ secretary shall state in writing why the application is not administratively complete.

**§22-3-20. Public notice; written objections; public hearings; informal conferences.**

(a) At the time of submission of an application for a surface mining permit or a significant revision of an existing permit pursuant to the provisions of this article, the applicant shall submit to the department a copy of the required advertisement for public notice on a form and in a manner prescribed by the secretary, which manner may be electronic. At the time of submission, the applicant shall place the advertisement in a local newspaper of general circulation in the county of the proposed surface-mining operation at least once a week for four consecutive weeks. The secretary shall notify various appropriate federal and state agencies as well as local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality in which the proposed surface mining operation will take place, notifying them of the operator's intention to mine on a particularly described tract of land and indicating the application number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies may submit written comments within a reasonable period established by the secretary on the mining application with respect to the effect of the proposed operation on the environment which is within their area of responsibility. ~~Such~~ The comments shall be immediately transmitted by the secretary to the applicant and to the appropriate office of the department. The secretary shall provide the name and address of each applicant to the Commissioner of the Division of Labor who shall, within 15 days from receipt, notify the secretary as to the applicant's compliance, if necessary, pursuant to §21-5-14 of this code.

(b) Any person having an interest which is or may be adversely affected, or the officer or head of any federal, state, or local governmental agency, has the right to file written objections to the proposed initial or revised permit application for a surface mining operation with the secretary within 30 days after the last publication of the advertisement required in §22-3-20(a) of this code. ~~Such~~ The objections shall be immediately transmitted to the applicant by the secretary and shall be made available to the public. If written objections are filed and an informal conference requested within 30 days of the last publication of the above notice, the secretary shall then hold a conference in the locality of the proposed mining within a reasonable time after the close of the public comment period. Those requesting the conference shall be notified and the date, time, and location of the informal conference shall also be advertised by the secretary in a newspaper of general circulation in the locality on a form and in a manner prescribed by the secretary, which manner may be electronic, at least two weeks prior to the scheduled conference date. The secretary may arrange with the applicant, upon request by any party to the conference proceeding, access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties at their respective expense until final release of the applicant's bond or other security posted in lieu thereof. The secretary's authorized

agent shall preside over the conference. In the event all parties requesting the informal conference stipulate agreement prior to the conference and withdraw their request, a conference need not be held.

## ARTICLE 11. WATER POLLUTION CONTROL ACT.

### ~~§22-11-7a. Certification agreements; required provisions; effective date.~~

~~(a) Any applicant for the water quality certification that seeks certification of activities covered by the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 for use at or in conjunction with a surface coal mining operation as defined in section three, article three of this chapter, certification may be issued subject to the following conditions: may be issued a certification in accordance with the legislative rules entitled Rules for Individual State Certification of Activities Requiring a Federal Permit, 47 C.S.R. 5A.~~

~~(1) If the applicant's surface coal mining operation will not impact waters of the state designated as national resource waters and streams where trout naturally reproduce and will not impact wetlands of the state in a manner inconsistent with all applicable state or federal standards as the case may be, as required by the federal Clean Water Act, and if the watershed above the toe of the farthest downstream permanent structure authorized pursuant to the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 is less than two hundred fifty acres, then the director may issue a water quality certification pursuant to the requirements of this section. If the watershed above the toe of the farthest downstream permanent structure impacted is equal to or greater than two hundred fifty acres, the director shall require that mitigation be undertaken. Additionally, the director may require mitigation for temporary impacts to waters of the state as specified in subdivision (2) of this subsection.~~

~~(2) If the watershed above the toe of the farthest downstream permanent structure authorized pursuant to the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 is greater than or equal to two hundred fifty acres and all other necessary requirements are met consistent with this section, the director shall further condition a water quality certification on a requirement that the applicant mitigate the expected water quality impacts under the following conditions:~~

~~(A) The water quality certification may require mitigation at a ratio appropriate to the type of waters impacted, consistent with state or federal standards as required by the federal Clean Water Act, for the types and locations of waters impacted;~~

~~(B) The Director may accept mitigation on the permitted area, mitigation off the permitted area, mitigation banking of waters of the state, or any combination thereof, or any other mitigation measure acceptable to the Director; and~~

~~(C) The Director shall provide credit for any mitigation that is a required component of the permit issued by the United States Army Corps of Engineers pursuant to 33 U.S.C. §1344 to the extent that it satisfies required mitigation pursuant to this section.~~

~~(D) Upon completion of the work required by an agreement to conduct operations authorized by this subsection the surface coal mining operation shall obtain a certification from a registered professional engineer that all mitigation work specified in the agreement has been completed in accordance with the conditions of the water quality certification. The director shall promptly review the certification and provide to the surface coal mining operation with notice that all mitigation work has been successfully completed, or that further mitigation work is necessary to meet the conditions imposed by the water quality certification. The mitigation amount may not exceed \$200,000 per acre~~

~~of stream disturbed above the toe of the farthest downstream permanent structure. Those moneys shall be deposited in the stream restoration fund under the jurisdiction of the Division of Environmental Protection and any expenditures from this fund after June 30, 1998, shall not be authorized from collections but shall only be authorized by appropriation by the Legislature. Additionally, the expenditures are only authorized in those counties where the activity leading to the mitigation occurred or in those counties adjacent to the counties where the activity leading to the mitigation occurred. The Director shall by December 31, of each year provide a report to the Joint Committee on Government and Finance on receipts and expenditures from the stream restoration fund, the number of acreage reclaimed by the Division through the use of these funds and the effectiveness of achieving stream restoration through the payment of the mitigation amounts into the fund in lieu of reclamation by the certificate holder.~~

~~(3) The Director shall confer with representatives of the surface coal mining industry and representatives of environmental organizations with an interest in water quality in developing a manual of approval options for mitigation on permitted areas, mitigation off permitted areas and mitigation involving banking of waters of the state.~~

(4) (1) The proposed ~~surface coal mining operation~~ activity shall comply with all applicable state and federal laws, rules, and regulations.

~~(5) (2) The director secretary~~ shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, for the purpose of implementing the provisions of this section which rules shall include, but not be limited to, the following:

(A) Establishing all necessary operational and performance requirements for ~~an operator~~ a person undertaking activities covered by this section;

(B) Modifying the provisions of this section, when necessary and appropriate to bring the provisions of this section into compliance with state or federal law or regulation; and

(C) Establishing the specific operational requirements for ~~mining operations~~ the activity consistent with this section appropriate to protect the waters of this state during and following ~~mining operations~~ the activity.

(b) The Joint Committee on Government and Finance may undertake or facilitate a study of the impact of mountaintop mining and valley fills upon the State of West Virginia.

(1) To facilitate the study, the Joint Committee on Government and Finance is further authorized to coordinate with and seek funding from appropriate federal agencies to facilitate the study including, but not limited to: The federal Environmental Protection Agency, Army Corps of Engineers, Office of Surface Mining Reclamation and Enforcement, and ~~the~~ Fish and Wildlife Service.

(2) In order to facilitate the research, the Joint Committee on Government and Finance shall appoint a council to coordinate and direct the research. The composition of the council shall be determined by the joint committee, but shall include representatives from the various interested parties as determined solely by the joint committee.

## CHAPTER 22A. MINERS' HEALTH, SAFETY, AND TRAINING.

### ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY, AND TRAINING; ADMINISTRATION; ENFORCEMENT.



**§22A-1-36. Mandatory safety programs; penalties.**

(a) The director, in consultation with the state Board of Coal Mine Health and Safety, shall promulgate rules in accordance with §29A-1-1 *et seq.* of this code, detailing the requirements for mine safety programs to be established by coal operators, as provided in §22A-1-36(b) of this code. The rules may require different types of safety programs to be developed, depending upon the output of the particular mine, the number of employees of the particular mine, the location of the particular mine, the physical features of the particular mine, or any other factor deemed relevant by the director.

(b) Within six months of the date when the rules required in §22A-1-36(a) of this code become final, each operator shall develop and submit to the director a comprehensive mine safety program for each mine, in accordance with such rules. Each employee of the mine shall be afforded an opportunity to review and submit comments to the director regarding the modification or revision of such program, prior to submission of such program to the director. Upon submission of such program the director has ~~ninety~~ 90 days to approve, reject, or modify such program. If the program is rejected, the director shall give the operator a reasonable time to correct and resubmit such program. ~~Each program which is approved shall be reviewed, at least annually, by the director.~~ An up-to-date copy of each program shall be placed on file in the office and further copies shall be made available to the miners of each mine and their representatives. Each operator shall undertake all efforts necessary to assure total compliance with the appropriate safety program at each mine and shall fully implement all portions of such program. Once approved, a comprehensive mine safety program shall not be subject to annual review by the director: *Provided*, That a program may be subject to annual review by the director after a fatality or serious accident involving bodily harm has occurred, or, if the operator has shown a pattern of mine safety violations as defined by §22A-1-15(2) of this code, such a finding shall also warrant annual review by the director. The director shall promulgate emergency rules in order to comply with this subsection.

(c) Any person violating any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or imprisoned in the county jail for not more than six months, or both fined and imprisoned.

**§22A-1-42. Surface ground control plan; automated external defibrillator.**

(a) The MSHA-approved surface ground control plan shall serve as the state-approved plan, and the operator, upon approval by MSHA, shall provide a copy of the MSHA-approved surface ground control plan to the director.

(b) Automated external defibrillators (AEDs) shall be required on all surface mining operations. The director shall promulgate emergency rules in order to comply with this section of code, giving special consideration to the climate sensitive nature of AEDs.

**ARTICLE 2. UNDERGROUND MINES.****VENTILATION****§22A-2-2. Submittal of detailed ventilation plan to director.**

(a) A mine operator shall submit a detailed ventilation plan and any addenda to the director for review and comment. The mine operator shall review the plan with the director and address concerns to the extent practicable. The operator shall deliver to the miners' representative employed by the operator at the mine, if any, a copy of the operator's proposed annual ventilation plan at least 10 days prior to the date of submission. The miners' representative, if any, shall be afforded the opportunity to submit written comments to the operator prior to such submission; in addition, the miners'

representative, if any, may submit written comments to the director. The director shall submit any concern that is not addressed to the United States Department of Labor - Mine Safety and Health Administration (MSHA) through comments to the plan. The mine operator shall provide a copy of the plan to the director 10 days prior to the submittal of the plan to MSHA. The MSHA-approved plan shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

(b) The operator shall give the director a copy of the MSHA-approved plan and any addenda as soon as the operator receives the approval.

(c) In the event of an unforeseen situation requiring immediate action on a plan revision, the operator shall submit the proposed revision to the director and the miners' representative, if any, employed by the operator at the mine when the proposed revision is submitted to MSHA. The director shall work with the operator to review and comment on the proposed plan revision to MSHA as quickly as possible.

(d) Upon approval by MSHA, the plan is enforceable by the director. The approved plan and all revisions and addenda thereto shall be posted on the mine bulletin board and made available for inspection by the miners at that mine for the period of time that they are in effect.

### **§22A-2-3. Fans.**

(a) The ventilation of mines, the systems for which extend for more than 200 feet underground, and which are opened after the effective date of this article, shall be produced by a mechanically operated fan or mechanically operated fans. Ventilation by means of a furnace is prohibited in any mine. The fan or fans shall be kept in continuous operation, unless written permission to do otherwise be granted by the director. In case of interruption to a ventilating fan or its machinery whereby the ventilation of the mine is interrupted, immediate action shall be taken by the mine operator or the operator's management personnel, in all mines, to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If ventilation is restored in 15 minutes, the face regions and other places in the affected areas where gas (methane) is likely to accumulate, shall be reexamined by a certified person; and if found free of explosive gas, power may be restored and work resumed. If ventilation is not restored in 15 minutes, all underground employees shall be removed from the mine, all power shall be cut off in a timely manner, and the underground employees shall not return until ventilation is restored and the mine examined by certified persons, mine examiners, or other persons holding a certificate to make preshift examination. If ventilation is restored to the mine before miners reach the surface, the miners may return to underground working areas only after an examination of the areas is made by a certified person and the areas are determined to be safe.

(b) All main fans installed after the effective date of this article shall be located on the surface in fireproof housings offset not less than 15 feet from the nearest side of the mine opening, equipped with fireproof air ducts, provided with explosion doors or a weak wall, and operated from an independent power circuit. In lieu of the requirements for the location of fans and pressure-relief facilities, a fan may be directly in front of, or over a mine opening: *Provided*, That such opening is not in direct line with possible forces coming out of the mine if an explosion occurs: *Provided, however*, That there is another opening having a weak wall stopping or explosion doors that would be in direct line with forces coming out of the mine. All main fans shall be provided with pressure-recording gauges or water gauges. A daily inspection shall be made of all main fans and machinery connected therewith by a certified electrician and a record kept of the same in a book prescribed for this purpose or by adequate facilities provided to permanently record the performance of the main fans and to give warning of an interruption to a fan.

(c) Auxiliary fans and tubing shall be permitted to be used in lieu of or in conjunction with line brattice to provide adequate ventilation to the working faces: *Provided*, That auxiliary fans be so located and operated to avoid recirculation of air at any time. Auxiliary fans shall be approved and maintained as permissible.

(d) If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be, by means of the primary air current conducted into the place, in a manner to prevent accumulation of methane.

(e) In places where auxiliary fans and tubing are used, the ventilation between shifts, weekends, and idle shifts shall be provided to face areas with line brattice or the equivalent to prevent accumulation of methane.

(f) The director may require that when continuous mine equipment is being used, all face ventilating systems using auxiliary fans and tubing shall be provided with machine-mounted diffuser fans, and such fans shall be continuously operated during mining operations.

(g) In the event of a fire or explosion in any coal mine, the ventilating fan or fans shall not intentionally be started, stopped, speed increased or decreased or the direction of the air current changed without the approval of the general mine foreman, and, if he or she is not immediately available, a representative of the Office of Miners' Health, Safety, and Training. A duly authorized representative of the employees should be consulted if practical under the circumstances.

(h) The MSHA-approved plan relating to fans shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

#### **§22A-2-4. Ventilation of mines in general.**

(a) The operator or mine foreman of every coal mine, whether worked by shaft, slope, or drift, shall provide and hereafter maintain for every such mine adequate ventilation. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or set of entries shall be not less than 9,000 cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of 3,000 cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than 9,000 cubic feet of air per minute if at least 9,000 cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. The operator shall provide to the safety committee access to anemometers and smoke tubes while performing their duties. All active underground working places in a mine shall be ventilated by a current of air containing not less than 19 and five-tenths percent of oxygen, not more than five-tenths percent of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

(b) Airflow shall be maintained in all intake and return air courses of a mine and, where multiple fans are used, neutral areas created by pressure equalization between main fans shall not be permitted. Production activities in working faces shall cease while tubing, line brattice or other ventilation devices are being installed in by the machine operator.

(c) Properly installed and adequately maintained line brattice or other approved devices shall be continuously used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive and noxious gases, dust, and explosive fumes. When damaged by falls or otherwise, such line brattice or other devices shall be repaired immediately.

(d) Brattice cloth used underground shall be of flame-resistant material. The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume and velocity of air to keep the working face clear of flammable, explosive and noxious gases, dust, and explosive fumes.

(e) Each working unit newly developed in virgin coal hereafter, shall be ventilated by a separate split of air: *Provided*, That in areas already under development and in areas where physical conditions prevent compliance with this provision, the director may grant temporary relief from compliance until such time as physical conditions make compliance possible. The quantity of air reaching the last crosscut shall not be less than 9,000 cubic feet of air per minute and shall under any condition have sufficient volume and velocity to reduce and carry away smoke and flammable or harmful gases from each working face in the section.

(f) As working places advance, crosscuts for air shall be made not more than 105 feet apart. Where necessary to render harmless and carry away noxious or flammable gases, line brattice or other approved methods of ventilation shall be used so as to properly ventilate the face. All crosscuts between the main intake and return airways not required for passage of air and equipment shall be closed with stoppings substantially built with incombustible or fire-resistant material so as to keep working places well ventilated. In mines where it becomes necessary to provide larger pillars for adequate roof support, working places shall not be driven more than 200 feet without providing a connection that will allow the free flow of air currents. In such cases, a minimum of 12,000 cubic feet of air a minute shall be delivered to the last open crosscut and as much more as is necessary to dilute and render harmless and carry away flammable and noxious gases.

(g) In special instances for the construction of sidetracks, haulageways, airways, or openings in shaft bottom or slope bottom layouts where the size and strength of pillars is important, the director may issue a permit approving greater distances. The permit shall specify the conditions under which such places may be driven.

(h) In all mines a system of bleeder openings on air courses, designed to provide positive movement of air through and/or around abandoned or caved areas, sufficient to prevent dangerous accumulation of gas in such areas, and to minimize the effect of variations in atmospheric pressure shall be made a part of pillar recovery plans projected after July 1, 1971.

(i) If a bleeder return is closed as a result of roof falls or water during pillar recovery operations, pillar operations may continue without reopening the bleeder return if at least 20,000 cubic feet of air per minute is delivered to the intake of the pillar line.

(j) No operator or mine foreman shall permit any person to work where he or she is unable to maintain the quantity and quality of the air current as heretofore required: *Provided*, That such provisions shall not prohibit the employment of men to make place of employment safe.

(k) The ventilation of any mine shall be so arranged by means of air locks, overcasts or undercasts, that the use of doors on passageways where men or equipment travel may be kept to a minimum. Where doors are used in a mine, they shall be erected in pairs so as to provide a ventilated air lock unless the doors are operated mechanically.

(l) A crosscut shall be provided at or near the face of each entry or room before such places are abandoned.

(m) Overcasts or undercasts shall be constructed of incombustible material and maintained in good condition.

(n) After January 1, 1987, all run through check curtains shall be substantially constructed of translucent material, except that where belting material has to be used because of high velocity, there shall be a window of translucent material at least 30 inches square or one-half the height of the coal seam, whichever is less.

(o) The MSHA-approved plan shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

#### **§22A-2-4a. Use of belt air.**

(a) *Definitions.* — For purposes of this section, ‘belt air’ means the use of a belt conveyor entry as an intake air course to ventilate the working sections of a mine or areas where mechanized mining equipment is being installed or removed.

(b) Upon the effective date of the enactment of this section, belt air may not be used to ventilate the working sections of a mine or areas where mechanized mining equipment is being installed or removed: *Provided*, That if an alternative method of ventilation will at all times guarantee no less than the same measure of protection afforded the miners of an underground mine by the foregoing or if the application of the foregoing to an underground mine will result in a diminution of safety to the miners in the mine, the director may approve the interim use of belt air pursuant to the following: The MSHA-approved plan for use of belt air shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall contain all provisions of state mining law as set forth in state code or code of state rules.

~~(1) For those operators using belt air pursuant to a ventilation plan approved by the director in accordance with the provisions of section two of this article prior to the effective date of the enactment of this section, the director shall cause an inspection to be made of the mine ventilation system and ventilation equipment. The director may allow the continued use of belt air in that mine if he or she determines that: (i) The use meets the minimum requirements of 30 CFR 75.350(b); and (ii) the use, as set forth in the ventilation plan and as inspected, will at all times guarantee no less than the same measure of protection afforded the miners of the mine if belt air were not used, or that the prohibition of the use of belt air in the mine will result in a diminution of safety to the miners in the mine.~~

~~(2) For those operators submitting on or after the effective date of the enactment of this section, a ventilation plan proposing the use of belt air to the director pursuant to section two of this article, the director shall immediately upon receipt of the plan give notice of the plan to the representative of the miners in that mine and cause any investigation to be made that the director considers appropriate: *Provided*, That the investigation shall include a review of any comments on the plan submitted by the representative of miners in the mine. Upon receiving the report of the investigation, the director shall make findings of fact and issue a written decision, incorporating in the decision his or her findings and an order approving or denying the use of belt air pursuant to the terms of the ventilation plan. To approve the use of belt air pursuant to a ventilation plan, the director shall, at a minimum, determine that: (i) The operator’s proposed use of belt air meets the minimum requirements of 30 CFR 75.350(b); and (ii) approval of the proposed use of belt air will at all times guarantee no less than the same measure of protection afforded the miners of the mine if belt air were not used,~~

or that the prohibition of the use of belt air in the mine will result in a diminution of safety to the miners in the mine.

~~(3) The interim use of belt air shall be accurately reflected in operator's plan of ventilation, as approved by the director in accordance with the provisions of section two of this article.~~

~~(c) Upon completion of the independent scientific and engineering review concerning the use of belt air and the composition and fire retardant properties of belt materials in underground coal mining by the technical study panel created pursuant to the provisions of 30 U. S. C. §963 and the Secretary of the United States Department of Labor's corresponding report to Congress pursuant to the review, the Board of Coal Mine Health and Safety shall, within thirty days of the Secretary of Labor's report to Congress, provide the Governor with its recommendations, if any, for the enactment, repeal or amendment of any statute or rule which would enhance the safe ventilation of underground mines and the health and safety of miners: *Provided*, That at least sixty days after the Secretary of Labor's report to Congress, the Board of Coal Mine Health, Safety and Training shall promulgate emergency rules regulating the use of belt air in light of that report: *Provided, however*, That the provisions of subsections (a) and (b) of this section shall expire and no longer have any force and effect upon the filing of such emergency rules.~~

#### **§22A-2-5. Unused and abandoned parts of mine.**

(a) In any mine, all workings which are abandoned after July 1, 1971, shall be sealed or ventilated. If the workings are sealed, the sealing shall be done with incombustible material in a manner prescribed by the director and one or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and measuring of hydrostatic pressure behind the seals. For the purpose of this section, working within a panel shall not be considered to be abandoned until the panel is abandoned.

(b) Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any working mine, unless permission is granted by the director with unanimous agreement of the technical and mine safety review committee. Air that has been used to ventilate seals shall not be used to ventilate any working place in any working mine. Air which has been used to ventilate an area from which the pillars have been removed shall not be used to ventilate any working place in a mine, except that the air, if it does not contain 0.25 volume percent or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries. Before sealed areas, temporary or permanent, are reopened, the director shall be notified.

(c) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, a professional engineer registered with the Board of Registration for Professional Engineers pursuant to §30-13-1 *et seq.* of this code shall certify the design of all new seals as meeting the criteria established by the director. Every seal design shall have the professional engineer's certificate and signature, in addition to his or her seal, in the following form:

'I the undersigned, do hereby certify that this seal design is, to the best of my knowledge, in accordance with all applicable requirements under state and federal law, rules and regulations.

\_\_\_\_\_ P.E.'

(d) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the director shall approve the construction of all new seals in accordance with rules authorized in this section. The construction shall also be:

(1) Certified by the mine foreman-fire boss of the mine as being in accordance with the design certified by a professional engineer pursuant to §22A-2-5(c) of this code; and

(2) (A) Constructed of solid concrete blocks and in accordance with the other provisions of 30 CFR 75.335(a)(1); or

(B) Constructed in a manner that the director has approved as having the capability to withstand pressure equal to or greater than a seal constructed in accordance with the provisions of 30 CFR 75.335(a)(1).

(e) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the operator shall inspect the physical condition of all seals and measure the atmosphere behind all seals in accordance with protocols developed by the Board of Coal Mine Health and Safety, pursuant to rules authorized in this section and consistent with a mine-specific atmospheric measurement plan submitted to and approved by the director. The atmospheric measurements shall include, but not be limited to, the methane and oxygen concentrations and the barometric pressure. The atmospheric measurements also shall be recorded with ink or indelible pencil in a book kept for that purpose on the surface at a location designated by the operator. The protocols shall specify appropriate methods for inspecting the physical condition of seals, measuring the mine atmosphere in sealed workings, and inerting the mine atmosphere behind the seals, where appropriate.

(f) (1) In all mines containing workings sealed using seals constructed in accordance with the provisions of 30 CFR 75.335(a)(2) which are constructed: (A) Of cementitious foam blocks; or (B) with methods or materials that the Board of Coal Mine Health and Safety determines do not provide an adequate level of protection to miners, the operator shall, pursuant to a plan submitted to and approved by the director, remediate the seals by either enhancing the seals or constructing new seals in place of or immediately outby the seals. After being remediated, all seals must have the capability to withstand pressure equal to or greater than a seal constructed in accordance with the provisions of 30 CFR 75.335(a)(1). The design, development, submission and implementation of the remediation plan is the responsibility of the operator of each mine. Pursuant to rules authorized in this section, the Board of Coal Mine Health and Safety shall specify appropriate methods of enhancing the seals.

(2) Notwithstanding any provision of this code to the contrary, if the director determines that any seal described in §22A-2-5(f)(1) of this code is incapable of being remediated in a safe and effective manner, the mine foreman-fire boss shall, at least once every 24 hours, inspect the physical condition of the seal and measure the atmosphere behind the seal. The daily inspections and measurements shall otherwise be performed in accordance with the protocols and atmospheric measurement plan established pursuant to §22A-2-5(e) of this code.

(g) Upon the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, second mining of lower coal on retreat, also known as bottom mining, shall not be permitted in workings that will be sealed unless an operator has first submitted and received approval by the director of a remediation plan that sets forth measures that will be taken to mitigate the effects of remnant ramps and other conditions created by bottom mining on retreat which can increase the force of explosions originating in and emanating out of workings that have been bottom mined. The director shall require that certification in a manner similar to that set forth in §22A-2-5(c) of this code shall be obtained by the operator from a professional engineer and the mine foreman-fire boss for the plan design and plan implementation, respectively.

(h) No later than 60 days after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the Board of Coal Mine Health and Safety

shall develop and promulgate rules pursuant to the provisions of §22A-6-4 of this code to implement and enforce the provisions of this section.

(i) Upon the issuance of mandatory health and safety standards relating to the sealing of abandoned areas in underground coal mines by the Secretary of the United States Department of Labor pursuant to 30 U. S. C. §811, as amended by section 10 of the federal Mine Improvement and New Emergency Response Act of 2006, the director, working in consultation with the Board of Coal Mine Health and Safety, shall, within 30 days, provide the Governor with his or her recommendations, if any, for the enactment, repeal, or amendment of any statute or rules which would enhance the safe sealing of abandoned mine workings and the health and safety of miners.

(j) The MSHA-approved plan for seals shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or code of state rules.

### ROOF – FACE – RIBS

#### **§22A-2-25. Roof control programs and plans; refusal to work under unsupported roof.**

(a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining systems of each coal mine and approved by the director shall be adopted and set out in printed form before new operations. The safety committee of the miners of each mine where such committee exists shall be afforded the opportunity to review and submit comments and recommendations to the director and operator concerning the development, modification, or revision of such roof control plans. The plan shall show the type of support and spacing approved by the director. Such plan shall be reviewed periodically, at least every six months by the director, taking into consideration any falls of roof or rib or inadequacy of support of roof or ribs. A copy of the plan shall be furnished to the director or his or her authorized representative and shall be available to the miners and their representatives. The MSHA-approved roof control plan shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or code of state rules.

(b) The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mine, as the director may prescribe, an ample supply of suitable materials of proper size with which to secure the roof thereof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. When overhangs or brows occur along rib lines they shall be promptly removed. All sections shall be maintained as near as possible on center. Except in the case of recovery work, supports knocked out shall be replaced promptly. Apprentice miners shall not be permitted to set temporary supports on a working section without the direct immediate supervision of a certified miner.

(c) The operator of a mine has primary responsibility to prevent injuries and deaths resulting from working under unsupported roof. Every operator shall require that no person may proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(d) The immediate supervisor of any area in which unsupported roof is located shall not direct or knowingly permit any person to proceed beyond the last permanent support unless adequate



temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(e) No miner shall proceed beyond the last permanent support in violation of a direct or standing order of an operator, a foreman or an assistant foreman, unless adequate temporary-support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miner.

(f) The immediate supervisor of each miner who will be engaged in any activity involving the securing of roof or rib during a shift shall, at the onset of any such shift, orally review those parts of the roof control plan relevant to the type of mining and roof control to be pursued by such miner.

(g) Any action taken against a miner due, in whole or in part, to his or her refusal to work under unsupported roof, where such work would constitute a violation of this section, is prohibited as an act of discrimination pursuant to §22A-1-22 of this code. Upon a finding of discrimination by the appeals board pursuant to §22A-1-22(b) of this code, the miner shall be awarded by the appeals board all reliefs available pursuant to §22A-1-22(b) and §22A-1-22(c) of this code.

#### **§22A-2-26. Roof support; specific requirements.**

(a) *Generally.* — The method of mining followed in any coal mine shall may not expose the miner to unusual dangers from roof falls, and the MSHA-approved plan shall serve as the state-approved plan: Provided, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or code of state rules.

(b) *Roadways, intersections, and arches.* — The width of roadways shall not exceed 16 feet unless additional support is added cross sectional. During the development of intersections, the roof between the tangents of the arches in the entry or room shall be supported with artificial roof supports prior to the development of such intersections. All areas where the arch is broken shall be considered as having unsupported roof and such roof should have artificial roof supports installed prior to any other work being performed in the area.

(c) *Examinations and corrections.* — Where miners are exposed to danger from falls of-roof, face and ribs, the operator shall examine and test the roof, face and ribs before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately. A probe or probes for methane detectors shall be provided on each working section other than longwall sections and sections mined solely with continuous miners with integral roof bolters.

(d) *Roof bolt recovery.* — Roof bolts shall not be recovered where complete extraction of pillars is attempted, where adjacent to clay veins or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

### **TRANSPORTATION**

#### **§22A-2-37. Haulage roads and equipment; shelter holes; prohibited practices; signals; inspection.**

(a) Use of haulage roads and equipment along with signals and inspection shall meet standards established by the U. S. Mine Safety and Health Administration. The roadbed, rails, joints, switches, frogs, and other elements of all haulage roads shall be constructed, installed, and maintained in a manner consistent with speed and type of haulage operations being conducted to ensure safe

operation. Where transportation of personnel is exclusively by rail, track shall be maintained to within 1,500 feet of the nearest working face, except that when any section is fully developed and being prepared for retreating, then the track shall be maintained to within 1,500 feet of that retreat mining section if a rubber tired vehicle is readily available: *Provided*, That in any case where such track is maintained to within a distance of more than 500 feet and not more than 1,500 feet of the nearest working face, a self-propelled, rubber-tired vehicle capable of transporting an injured worker shall be readily available.

(b) Track switches, except room and entry development switches, shall be provided with properly installed throws, bridle bars and guard rails; switch throws and stands, where possible, shall be placed on the clearance side.

(c) Haulage roads on entries shall have a continuous, unobstructed clearance of at least 24 inches from the farthest projection of any moving equipment on the clearance side.

(d) On haulage roads where trolley lines are used, the clearance shall be on the side opposite the trolley lines.

(e) On the trolley wire or 'tight' side, there shall be at least 12 inches of clearance from the farthest projection of any moving equipment.

(f) Warning lights or reflective signs or tapes shall be installed along haulage roads at locations of abrupt or sudden changes in the overhead clearance.

(g) The clearance space on all haulage roads shall be kept free of loose rock, coal, supplies, or other material: *Provided*, That not more than 24 inches need be kept free of such obstructions.

(h) Ample clearance shall be provided at all points where supplies are loaded or unloaded along haulage roads or conveyors which in no event shall be less than 24 inches.

(i) Shelter holes shall be provided along haulage entries. Such shelter holes shall be spaced not more than 105 feet apart, except when variances are authorized by the director with unanimous agreement of the Mine Safety and Technical Review Committee. Shelter holes shall be on the side of the entry opposite the trolley wire except that shelter holes may be on the trolley wire and feeder wire side if the trolley wire and feeder wire are guarded in a manner approved by the director. The MSHA-approved plan shall serve as the state-approved plan governing the use of shelters: *Provided*, That the MSHA-approved plan shall comply with all other provisions of state mining law as set forth in state code or code of state rules.

(j) Shelter holes shall be at least five feet in depth, not more than four feet in width and as high as the traveling space, unless the director with unanimous agreement of the Mine Safety and Technical Review Committee grants a waiver. Room necks and crosscuts may be used as shelter holes even though their width exceeds four feet.

(k) Shelter holes shall be kept clear of refuse and other obstructions.

(l) Shelter holes shall be provided at switch throws and manually operated permanent doors.

(m) No steam locomotive shall be used in mines where miners are actually employed in the extraction of coal, but this shall not prevent operation of a steam locomotive through any tunnel haulway or part of a mine that is not in actual operation and producing coal.

(n) Underground equipment powered by internal combustion engines using petroleum products, alcohol, or any other compound shall not be used in a coal mine, unless the equipment is diesel-powered equipment approved, operated and maintained as provided in §22A-2-1 *et seq.* of this code.

(o) Locomotives, personnel carriers, mine cars, supply cars, shuttle cars, and all other haulage equipment shall be maintained in a safe operating condition. Each locomotive, personnel carrier, barrier tractor, and other related equipment shall be equipped with a suitable lifting jack and handle. An audible warning device and headlights shall be provided on each locomotive and each shuttle car. All other mobile equipment, using the face areas of the mine, shall be provided with a conspicuous light or other approved device so as to reduce the possibility of collision.

(p) No persons other than those necessary to operate a trip or car shall ride on any loaded car or on the outside of any car. Where pusher locomotives are not used, the locomotive operator shall have an assistant to assist him or her in his or her duties.

(q) The pushing of trips, except for switching purposes, is prohibited on main haulage roads: *Provided*, That nothing herein shall prohibit the use of a pusher locomotive to assist the locomotive pulling a trip. Motormen and trip riders shall use care in handling locomotives and cars. It shall be their duty to see that there is a conspicuous light on the front and rear of each trip or train of cars when in motion: *Provided, however*, That trip lights need not be used on cars being shifted to and from loading machines, or on cars being handled at loading heads during gathering operations at working faces. No person, other than the motorman and brakeman, should ride on a locomotive unless authorized by the mine foreman, and then only when safe riding facilities are provided. An empty car or cars shall be used to provide a safe distance between the locomotive and the material car when rail, pipe, or long timbers are being hauled. A safe clearance shall be maintained between the end car or trips placed on side tracks and moving traffic. On haulage roads the clearance point shall be marked with an approved device.

(r) No motorman, trip rider, or brakeman shall get on or off cars, trips, or locomotives while they are in motion, except that a trip rider or brakeman may get on or off the rear end of a slowly moving trip or the stirrup of a slowly moving locomotive to throw a switch, align a derail, or open or close a door.

(s) Flying or running switches and riding on the front bumper of a car or locomotive are prohibited. Back poling shall be prohibited except with precaution to the nearest turning point (not over 80 feet), or when going up extremely steep grades and then only at slow speed. The operator of a shuttle car shall face in the direction of travel except during the loading operation when he or she shall face the loading machine.

(t) (1) A system of signals, methods, or devices shall be used to provide protection for trips, locomotives, and other equipment coming out onto tracks used by other equipment.

(2) In any coal mine where more than 350 tons of coal are produced on any shift in each 24-hour period, a dispatcher shall be on duty when there are movements of track equipment underground, including time when there is no production of coal. Such traffic shall move only at the direction of the dispatcher.

(3) The dispatcher's only duty shall be to direct traffic: *Provided*, That the dispatcher's duties may also include those of the responsible person required by §22A-2-42 of this code: *Provided, however*, That the dispatcher may perform other duties which do not interfere with his or her dispatching responsibilities and do not require him or her to leave the dispatcher's station except as approved by the Mine Safety and Technical Review Committee.

(4) Any dispatcher's station shall be on the surface.

(5) All self-propelled track equipment shall be equipped with two-way communications.

(u) Motormen shall inspect locomotives, and report any mechanical defects found to the proper supervisor before a locomotive is put in operation.

(v) A locomotive following another trip shall maintain a distance of at least 300 feet from the rear end of the trip ahead, unless such locomotive is coupled to the trip ahead.

(w) Positive stop blocks or derails shall be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines. Positive-acting stop blocks or derails shall be used where necessary to protect persons from danger of runaway haulage equipment.

(x) Shuttle cars shall not be altered by the addition of sideboards so as to inhibit the view of the operator: *Provided*, That the addition of or use of sideboards on shuttle cars shall be permitted if the shuttle car is equipped with cameras: *Provided, however*, That shuttle cars with sideboards as manufactured by an equipment manufacturer shall be permitted to be used without the use of cameras if permitted by the director.

(y) Mining equipment shall not be parked within 15 feet of a check curtain or fly curtain.

(z) All self-propelled track haulage equipment shall be equipped with an emergency stop switch, self-centering valves, or other devices designed to de-energize the traction motor circuit in the event of an emergency. All track-mounted trolley equipment shall be equipped with trolley pole swing limiters or other means approved by the Mine Safety and Technical Review Committee to restrict movement of the trolley pole when it is disengaged from the trolley wire. Battery powered mobile equipment shall have the operating controls clearly marked to distinguish the forward and reverse positions.

#### **§22A-2-55. Protective equipment and clothing.**

(a) Welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use the same where there is a hazard from flying particles or other eye hazards.

(b) Employees engaged in haulage operations and all other persons employed around moving equipment on the surface and underground shall wear snug-fitting clothing.

(c) Protective gloves shall be worn when material which may injure hands is handled, but gloves with gauntleted cuffs shall not be worn around moving equipment.

(d) Safety hats and safety-toed shoes shall be worn by all persons while in or around a mine: *Provided*, That metatarsal guards are not required to be worn by persons when working in those areas of underground mine workings which average less than 48 inches in height as measured from the floor to the roof of the underground mine workings.

(e) Approved eye protection shall be worn by all persons while being transported in open-type man trips.

(f) (1) A self-contained self-rescue device approved by the director shall be worn by each person underground or kept within his or her immediate reach and the device shall be provided by the operator. The self-contained self-rescue device shall be adequate to protect a miner for one hour or

longer. Each operator shall train each miner in the use of the device and refresher training courses for all underground employees shall be held once each quarter. Quarters shall be based on a calendar year.

(2) In addition to the requirements of §22A-2-55(f)(1) of this code, the operator shall also provide caches of additional self-contained self-rescue devices throughout the mine in accordance with a plan approved by the director. Each additional self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. The total number of additional self-contained self-rescue devices, the total number of storage caches and the placement of each cache throughout the mine shall be established by rule pursuant to §22A-2-55(i) of this code. A luminescent sign with the words 'SELF-CONTAINED SELF-RESCUER' or 'SELF-CONTAINED SELF-RESCUERS' shall be conspicuously posted at each cache and luminescent direction signs shall be posted leading to each cache. Lifeline cords or other similar device, with reflective material at 25-foot intervals, shall be attached to each cache from the last open crosscut to the surface. The operator shall conduct weekly inspections of each cache and each lifeline cord or other similar device to ensure operability.

(3) Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any self-contained self-rescue device or lifeline cord from the mine or mine site with the intent to permanently deprive the operator of the device or lifeline cord or knowingly tampers with or attempts to tamper with the device or lifeline cord ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

(g) The MSHA-approved emergency response plan (ERP) shall serve as the state-approved plan governing the storage of self-contained self-rescuers (SCSR). At a minimum, three one-hour SCSRs shall be available for everyone reasonably likely to be on the working section at any given time. The director may issue a special assessment pursuant to §22A-1-21 of this code for failure to comply with this subsection.

~~(g)~~(h)(1) A wireless emergency communication device approved by the director and provided by the operator shall be worn by each person underground: *Provided*, That if a miner's wireless emergency communications device shall malfunction or cease to operate then such miner shall be assigned to be in sight or sound of a certified miner until such time an operating device shall be delivered. The wireless emergency communication device shall, at a minimum, be capable of receiving emergency communications from the surface at any location throughout the mine. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine any and all equipment necessary to transmit emergency communications from the surface to each wireless emergency communication device at any location throughout the mine.

(2) Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless emergency communication device or related equipment from the mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

~~(h)~~(i)(1) A wireless tracking device approved by the director and provided by the operator shall be worn by each person underground. In the event of an accident or other emergency, the tracking device shall, at a minimum, be capable of providing real-time monitoring of the physical location of

each person underground: *Provided*, That no person shall discharge or discriminate against any miner based on information gathered by a wireless tracking device during nonemergency monitoring. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine all equipment necessary to provide real-time emergency monitoring of the physical location of each person underground.

(2) The MSHA-approved ERP shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all other provisions of state mining law as set forth in state code or the code of state rules.

(3) (2) Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless tracking device or related equipment, approved by the director, from a mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment ~~shall be is~~ guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

(i)(j) The director ~~may~~ shall promulgate emergency and legislative rules to implement and enforce this section pursuant to the provisions of §29A-3-1 *et seq.* of this code.

## **ARTICLE 2A. USE OF DIESEL-POWERED EQUIPMENT IN UNDERGROUND COAL MINES.**

### **PART X. EXISTING RULES TO BE REVISED.**

#### **§22A-2A-1001. Existing state rules to be revised.**

Unless otherwise revised. ~~By~~ by August 31, ~~2017~~ 2018, the director shall revise state rules promulgated pursuant to the authority of this chapter as follows:

(1) To reflect the abolishment of the West Virginia Diesel Equipment Commission and transfer of duties and responsibilities to the director, pursuant to §22A-2A-301 of this code;

(2) To reflect that a mine operator shall be permitted to replace a filter or catalyst of the same make and model without contacting the Office of Miners' Health, Safety, and Training;

(3) To reflect that ASE certified diesel mechanics shall make repairs and adjustments to diesel fuel injection systems, engine timing, or exhaust emissions control and conditioning systems;

(4) To permit a mine operator to dispose of used intake air filters, exhaust diesel particulate matter filters, and engine oil filters in their original containers or other suitable enclosed containers and to remove them from the underground mine to the surface no less than once in a 24-hour period;

(5) To require that records of emissions tests, 200-hour maintenance tests, and repairs shall be countersigned once each week by the certified mine electrician or mine foreman, that scheduled maintenance and an independent analysis of engine oil occur at 200 hours of engine operation, and that diagnostic testing of engine operation occur at 200 hours;

(6) To remove the requirement that a portable carbon monoxide (CO) sampling device be installed into the untreated exhaust gas coupling provided in the operator's cab;

(7) To modify the time and duration for which the CO sampler must be started to measure and record CO levels from every minute for five minutes to every 30 seconds for 90 seconds;

(8) To modify the alternative condition by which equipment fails under 196 C. S. R. §1-21, to omit the reference to the average CO reading for untreated exhaust gas is greater than twice the baseline; ~~and~~

(9) To remove the requirement for eight hours of annual diesel equipment operator refresher training separate from that required by MSHA regulations; and

(10) To permit the use of diesel generators in underground mines so long as the generator is vented directly to the return and at least one person is present within sight and sound of the generator: Provided, That all current state rules and statutes relating to the use of diesel-powered equipment and electricity generation remain in force."

The bill was then ordered to third reading.

**S. B. 631**, Relating generally to one-call system; on second reading, coming up in regular order, was read a second time and ordered to third reading.

### First Reading

**S. B. 242**, Requiring health insurance providers provide coverage for certain Lyme disease treatment,

**Com. Sub. for S. B. 275**, Relating to tax on purchases of intoxicating liquors,

**Com. Sub. for S. B. 290**, Relating to DEP standards of water quality and effluent limitations,

**S. B. 322**, Relating to employees of Department of Agriculture,

**Com. Sub. for S. B. 392**, Reconfiguring membership of Emergency Medical Services Advisory Council,

**S. B. 411**, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians,

**S. B. 463**, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture,

**S. B. 498**, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest,

**Com. Sub. for S. B. 506**, Deregulating persons who perform work on heating, ventilating, and cooling systems,

**S. B. 525**, Relating to certification for emergency medical training - mining,

**Com. Sub. for S. B. 548**, Authorizing county commissions to pay election officials,

**Com. Sub. for S. B. 556**, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority,

**S. B. 585**, Altering boundary line between Doddridge and Harrison counties,

And,

**Com. Sub. for S. B. 603**, Relating to proceedings for involuntary custody for examination.

### Second Reading

- continued -

**Com. Sub. for H. B. 4019**, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on second reading, coming up in regular order, with the right to amend on third reading, was read a second time and advanced to third reading.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 551**, Relating to failure of employers to make contributions on behalf of employees to retirement plan administered by CPRB,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 82**, Including rebuttable presumptions in certain cases for firefighters with regard to workers' compensation,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 230**, Authorizing Department of Commerce promulgate legislative rules,

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

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules submitted the following report, which was received:

Your Committee on Rules has had under consideration:



**H. C. R. 76**, U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

**Com. Sub. for H. C. R. 76**, U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge,

With the recommendation that the committee substitute be adopted.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules submitted the following report, which was received:

Your Committee on Rules has had under consideration:

**Com. Sub. for H. C. R. 11**, Charleston Police Department Captain Jerry D. Hill Memorial Bridge,

**H. C. R. 21**, U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge,

**H. C. R. 39**, Requesting the Joint Committee on Government and Finance to study sustainability of the state's higher education system,

**Com. Sub. for H. C. R. 40**, U. S. Air Force SMSgt Billie E. 'Bunky' Hodge Bridge,

**H. C. R. 44**, U. S. Army PFC Clayton Collins Memorial Bridge,

**Com. Sub. for H. C. R. 53**, Pastor Robert L. 'Bob' Barker Memorial Bridge,

**Com. Sub. for H. C. R. 54**, U. S. Army SPC 4 Thurman 'Duwayne' Young Memorial Road,

**H. C. R. 56**, Requesting the Joint Committee on Government and Finance study the Public Employees Insurance Agency and potential alternative methods to control healthcare costs,

**Com. Sub. for H. C. R. 67**, U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road,

**H. C. R. 71**, U. S. Army CPL Lee Roy Young Memorial Bridge,

**Com. Sub. for H. C. R. 85**, Requesting the legislatures and departments of transportation of Maryland, Pennsylvania, and Virginia to endorse and pursue the construction of a new four-lane, limited access highway, extending Interstate Highway 99 from its present terminus at Bedford, Pennsylvania, to Covington, Virginia,

**H. C. R. 93**, Requesting the Joint Committee on Government and Finance study exempting state employees from the payment of state income tax,

**H. C. R. 94**, Requesting the Joint Committee on Government and Finance to conduct a study comparing West Virginia's asbestos rules with those in other states,

**H. C. R. 99**, Requesting the Joint Committee on Government and Finance to study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state,

**H. C. R. 100**, Morgantown High School Veterans Bridge,

**H. C. R. 101**, Requesting the Governor's Task Force on Public Employee Insurance Agency Stability to review means and methods of including medical facilities,

And,

**H. C. R. 102**, U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., Memorial Bridge,

And reports the same back with the recommendation that they each be adopted.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 521**, Requiring chief executive of municipal law-enforcement agency be certified law-enforcement officer,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 10**, Relating generally to PSC jurisdiction,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**Com. Sub. for S. B. 469**, Converting Addiction Treatment Pilot Program to permanent program,

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

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**Com. Sub. for S. B. 472**, Providing funds to DHHR for local boards of health employee pay raises,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 472) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**S. B. 407**, Licensing and approval of child care programs,

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

Delegate Hanshaw, Chair of 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 6<sup>th</sup> day of March, 2018, 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. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel,

**Com. Sub. for H. B. 2654**, Expanding county commissions' ability to dispose of county or district property,

**Com. Sub. for H. B. 2889**, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer

And,

**Com. Sub. for H. B. 4268**, Co-tenancy Modernization and Majority Protection Act.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 434**, Specifying documents not subject to discovery in certain proceedings,

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

On motion for leave, a bill was introduced (Originating in the Committee on Finance, with the recommendation that it do pass), which was read by its title, as follows:

**By Delegates Nelson, Anderson, C. Miller, Boggs, Walters, Westfall, Ellington, Ambler, Longstreth, Hartman and Gearheart:**

**H. B. 4630** - "A Bill to amend the Code of West Virginia, 1931, as amended, and to amend and reenact §5-5-4 of said code, all relating to a 2019 across-the-board salary adjustment for employees of the Department of Health and Human Resources.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 630**, Relating to changes in distribution of certain racetrack video lottery net terminal income and excess lottery fund,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 630) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 244**, Specifying conditions for unlawful possession of firearm at school-sponsored activities,

**Com. Sub. for S. B. 445**, Allowing DOH acquire real or personal property for utility accommodation,

And,

**Com. Sub. for S. B. 446**, Creating Agritourism Responsibility Act,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 425**, Removing sunset dates which members of policemen's or firemen's pension fund elect to participate in deferred retirement option plan,

And,

**Com. Sub. for S. B. 442**, Establishing universal forms and deadlines when submitting prior authorization electronically,

And reports the same back, with the recommendation that they each do pass.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 141**, Expanding county assessment and collection of head tax on breeding cows,

**Com. Sub. for S. B. 288**, Regulating cremation, embalming and directing of funeral service,

**S. B. 339**, Relating to WV Retirement Health Benefit Trust Fund within PEIA,

**S. B. 355**, Dissolving IS&C Division under Office of Technology,

**Com. Sub. for S. B. 438**, Relating to debt service on bonds secured by State Excess Lottery Revenue Fund,

**Com. Sub. for S. B. 501**, Relating to accrued benefit of retirees in Deputy Sheriff Retirement System,

And,

**Com. Sub. for S. B. 625**, Creating WV Volunteer Fire and Rescue Act of 2018,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Deem.

### **Miscellaneous Business**

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of Delegate Fast agreeing with Delegate Fleischauer in the Appendix to the Journal.

Pursuant to House Rule 94b, Members filed forms with the Clerk's Office to be added as a cosponsor of the following resolutions:

- Delegate Overington for H. C. R. 85
- Delegate Frich for H. C. R. 100

At 8:27, the House of Delegates adjourned until 11:00 a.m., Wednesday, March 7, 2018.

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**HOUSE OF DELEGATES**  
**STEPHEN J. HARRISON, Clerk**  
**Building 1, Room M-212**  
**1900 Kanawha Blvd., East**  
**Charleston, WV 25305-0470**



**SPECIAL CALENDAR**

**Wednesday, March 7, 2018**

**57<sup>th</sup> Day**

**11:00 A. M.**

**UNFINISHED BUSINESS**

- Com. Sub. for H. C. R. 11 - Charleston Police Department Captain Jerry D. Hill Memorial Bridge
- H. C. R. 21 - U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge
- H. C. R. 39 - Requesting the Joint Committee on Government and Finance to study sustainability of the state's higher education system
- Com. Sub. for H. C. R. 40 - U. S. Air Force SMSgt Billie E. 'Bunky' Hodge Bridge
- H. C. R. 44 - U. S. Army PFC Clayton Collins Memorial Bridge
- Com. Sub. for H. C. R. 53 - Pastor Robert L. 'Bob' Barker Memorial Bridge
- Com. Sub. for H. C. R. 54 - U. S. Army SPC 4 Thurman 'Duwayne' Young Memorial Road
- H. C. R. 56 - Requesting the Joint Committee on Government and Finance study the Public Employees Insurance Agency and potential alternative methods to control healthcare costs
- Com. Sub. for H. C. R. 67 - U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road
- H. C. R. 71 - U. S. Army CPL Lee Roy Young Memorial Bridge
- Com. Sub. for H. C. R. 76 - U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge
- Com. Sub. for H. C. R. 85 - Requesting the legislatures and departments of transportation of Maryland, Pennsylvania, and Virginia to endorse and pursue the construction of a new four-lane, limited access highway, extending Interstate Highway 99 from its present terminus at Bedford, Pennsylvania, to Covington, Virginia
- H. C. R. 93 - Requesting the Joint Committee on Government and Finance study exempting state employees from the payment of state income tax

- H. C. R. 94 - Requesting the Joint Committee on Government and Finance to conduct a study comparing West Virginia's asbestos rules with those in other states
- H. C. R. 99 - Requesting the Joint Committee on Government and Finance to study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state
- H. C. R. 100 - Morgantown High School Veterans Bridge
- H. C. R. 101 - Requesting the Governor's Task Force on Public Employee Insurance Agency Stability to review means and methods of including medical facilities
- H. C. R. 102 - U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., Memorial Bridge

### **THIRD READING**

- Com. Sub. for S. B. 36 - Relating generally to DNA testing (SHOTT) (REGULAR)
- Com. Sub. for S. B. 51 - Relating to domestic relations (SHOTT) (REGULAR)
- Com. Sub. for S. B. 261 - Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund (NELSON) (JULY 1, 2018)
- S. B. 282 - Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery (SHOTT) (REGULAR)
- S. B. 299 - Relating to mandatory insurance coverage for medical foods for amino acid-based formulas (NELSON) (REGULAR)
- Com. Sub. for S. B. 347 - Relating to operation of motorboats (SHOTT) (REGULAR)
- Com. Sub. for S. B. 359 - Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 461 - Extending time to file petition for motor fuel excise tax refund (NELSON) (REGULAR)



Com. Sub. for S. B. 465 - Relating to mandated reporting of child abuse and neglect (SHOTT) (REGULAR)

Com. Sub. for S. B. 475 - Industrial Hemp Development Act (SHOTT) (REGULAR)

S. B. 479 - Establishing local government monitoring by Auditor (NELSON) (REGULAR)

Com. Sub. for S. B. 500 - Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund (NELSON) (EFFECTIVE FROM PASSAGE)

Com. Sub. for S. B. 543 - Relating to confidentiality of medical records (SHOTT) (REGULAR)

Com. Sub. for S. B. 555 - Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities (SHOTT) (REGULAR)

Com. Sub. for S. B. 574 - Relating to crime of misrepresentation of military honors (SHOTT) (REGULAR)

Com. Sub. for S. B. 575 - Approving additional beds for intermediate care facilities (SHOTT) (REGULAR)

S. B. 576 - Relating to Patient Injury Compensation Fund (NELSON) (REGULAR)

Com. Sub. for S. B. 582 - Allowing candidate for political party executive committee serve as election official (SHOTT) (EFFECTIVE FROM PASSAGE)

S. B. 584 - Finding certain claims against state to be moral obligations of state (NELSON) (EFFECTIVE FROM PASSAGE)

Com. Sub. for S. B. 589 - Relating to issuance of personalized plates for antique motor vehicles (NELSON) (REGULAR)

Com. Sub. for S. B. 590 - Providing special license plate for curing childhood cancer (NELSON) (REGULAR)

Com. Sub. for S. B. 616 - Establishing maximum gross weight for certain wood-bearing trucks (SHOTT) (REGULAR)

S. B. 626 - Relating generally to coal mining (SHOTT) (REGULAR)

S. B. 631 - Relating generally to one-call system (SHOTT) (REGULAR)

Com. Sub. for H. B. 4019 - Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution (NELSON) (EFFECTIVE FROM PASSAGE) [RIGHT TO AMEND]

### **SECOND READING**

S. B. 242 - Requiring health insurance providers provide coverage for certain Lyme disease treatment (SHOTT) (REGULAR)

Com. Sub. for S. B. 275 - Relating to tax on purchases of intoxicating liquors (SHOTT) (REGULAR)

Com. Sub. for S. B. 290 - Relating to DEP standards of water quality and effluent limitations (SHOTT) (REGULAR)

S. B. 322 - Relating to employees of Department of Agriculture (HAMRICK) (REGULAR)

Com. Sub. for S. B. 392 - Reconfiguring membership of Emergency Medical Services Advisory Council (HOWELL) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)

S. B. 411 - Removing Commissioner of Bureau for Public Health from State Board of Sanitarians (HOWELL) (REGULAR)

S. B. 463 - Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture (GRAVES) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)

S. B. 498 - Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest (PACK) (REGULAR)

Com. Sub. for S. B. 506 - Deregulating persons who perform work on heating, ventilating, and cooling systems (HAMRICK) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)

S. B. 525 - Relating to certification for emergency medical training – mining (HOWELL) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)

- Com. Sub. for S. B. 548 - Authorizing county commissions to pay election officials (SHOTT) (REGULAR)
- Com. Sub. for S. B. 556 - Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority (HOWELL) (REGULAR)
- S. B. 585 - Altering boundary line between Doddridge and Harrison counties (SHOTT) (EFFECTIVE FROM PASSAGE) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 603 - Relating to proceedings for involuntary custody for examination (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

### **FIRST READING**

- Com. Sub. for S. J. R. 3 - Judicial Budget Oversight Amendment (SHOTT) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 10 - Relating generally to PSC jurisdiction (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 82 - Including rebuttable presumptions in certain cases for firefighters with regard to workers' compensation (SHOTT) (REGULAR)
- Com. Sub. for S. B. 141 - Expanding county assessment and collection of head tax on breeding cows (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 230 - Authorizing Department of Commerce promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 244 - Specifying conditions for unlawful possession of firearm at school-sponsored activities (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 271 - Creating centralized Shared Services Section of Department of Administration (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 283 - Relating generally to procurement by state agencies (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)

- Com. Sub. for S. B. 288 - Regulating cremation, embalming and directing of funeral service (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 313 - Waiving occupational fees and licensing requirements for certain low-income individuals, military families, and young workers (HOWELL) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)
- S. B. 339 - Relating to WV Retirement Health Benefit Trust Fund within PEIA (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 355 - Dissolving IS&C Division under Office of Technology (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 375 - Relating to farmers markets (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 401 - Requiring specified coverage in health benefit plans for treatment of substance abuse disorders (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- S. B. 407 - Licensing and approval of child care programs (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 408 - Licensing of nursing homes and assisted living residences (HOWELL) (REGULAR)
- S. B. 425 - Removing sunset dates which members of policemen's or firemen's pension fund elect to participate in deferred retirement option plan (NELSON) (REGULAR)
- Com. Sub. for S. B. 434 - Specifying documents not subject to discovery in certain proceedings (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 438 - Relating to debt service on bonds secured by State Excess Lottery Revenue Fund (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 442 - Establishing universal forms and deadlines when submitting prior authorization electronically (NELSON) (REGULAR)

- Com. Sub. for S. B. 443 - Terminating parental rights when certain conditions are met (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 445 - Allowing DOH acquire real or personal property for utility accommodation (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 446 - Creating Agritourism Responsibility Act (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- S. B. 468 - Changing date and recipients for submission of Auditor's annual report (HOWELL) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 469 - Converting Addiction Treatment Pilot Program to permanent program (ELLINGTON) (REGULAR) (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 491 - Establishing fee for expungement of certain criminal convictions (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 495 - Designating specific insurance coverages exempt from rate filing requirements (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 501 - Relating to accrued benefit of retirees in Deputy Sheriff Retirement System (NELSON) (JULY 1, 2018) (FINANCE COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 521 - Requiring chief executive of municipal law-enforcement agency be certified law-enforcement officer (SHOTT) (JULY 1, 2018) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- S. B. 551 - Relating to failure of employers to make contributions on behalf of employees to retirement plan administered by CPRB (SHOTT) (REGULAR)
- S. B. 592 - Adding examination of advanced care technician for firefighter paramedic (HOWELL) (REGULAR) (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING)
- S. B. 612 - Relating to sale of municipal property (HOWELL) (REGULAR)

Com. Sub. for S. B. 625 - Creating WV Volunteer Fire and Rescue Act of 2018 (NELSON)  
(REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)

H. B. 4630 - Relating to a 2019 across-the-board salary adjustment for  
employees of the Department of Health and Human Resources  
(NELSON) (REGULAR)

## HOUSE CALENDAR

Wednesday, March 7, 2018

57<sup>th</sup> Day

11:00 A. M.

### THIRD READING

- Com. Sub. for H. B. 4235 - Permitting full-time nonresident students attending an in-state college or university to purchase lifetime resident hunting, trapping, and fishing licenses (NELSON) (REGULAR)
- Com. Sub. for H. B. 4296 - Establishing the Southern West Virginia Lake Development Study Commission (NELSON) (REGULAR)

### SECOND READING

- Com. Sub. for S. B. 116 - Providing court costs collected under Second Chance Driver's License Program are not subject to 5 percent offset (SHOTT) (REGULAR)
- Com. Sub. for S. B. 273 - Reducing use of certain prescription drugs (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- S. B. 297 - Eliminating taxation on annuity considerations collected by life insurer (NELSON) (REGULAR)
- S. B. 385 - Decreasing and adding appropriations out of Treasury to DHHR and MAPS (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 2114 - Providing a procedure for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2383 - Providing for the redistricting office of the Joint Committee on Government and Finance to propose redistricting plans during census years (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4158 - Relating to municipal home rule (HOWELL) (REGULAR)
- Com. Sub. for H. B. 4241 - Transitioning foster children into managed care (NELSON) (REGULAR)

Com. Sub. for H. B. 4563 - Relating to the severance tax on oil and gas produced from low producing wells (NELSON) (REGULAR)

**FIRST READING**

Com. Sub. for S. B. 508 - Establishing State Trail Authority (HOWELL) (REGULAR)

S. B. 632 - Allowing retired judicial officers recalled to service to avoid limit on temporary payments under certain circumstances (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for H. B. 4494 - Authorizing certain motor vehicle manufacturers to operate as new car dealers (SHOTT) (REGULAR)



**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**WEDNESDAY, MARCH 7, 2018**

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**COMMITTEE ON GOVERNMENT ORGANIZATION  
9:00 A.M. – ROOM 215E**

**COMMITTEE ON RULES  
10:45 A.M. – BEHIND CHAMBER**





HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
Building 1, Room M-212  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0470