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March 6, 2020  
FIFTY-NINTH DAY



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Friday, March 6, 2020

**FIFTY-NINTH DAY**

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Thursday, March 5, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Reordering of the Calendar**

Pursuant to the action of the Committee on Rules, Delegate Summers announced that S. B. 278 and Com. Sub. for S. B. 722, on Third Reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 130, on Third Reading and Com. Sub. for S. B. 253 on Second Reading, House Calendar, had been transferred to the Special Calendar.

**Messages from the Executive**

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 5, 2020, he approved **H. B. 2922, H. B. 4166, H. B. 4179, H. B. 4353, H. B. 4381, Com. Sub. for H. B. 4470, H. B. 4476, H. B. 4515, H. B. 4601, Com. Sub. for S. B. 209, Com. Sub. for S. B. 449, Com. Sub. for S. B. 532, Com. Sub. for S. B. 544, Com. Sub. for S. B. 560, S. B. 573, S. B. 620, Com. Sub. for S. B. 623, S. B. 642 and Com. Sub. for S. B. 657.**

**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. 2646**, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees.

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

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 5. WAGE PAYMENT AND COLLECTION.**

**§ 21-5-4a. Safe Harbor.**

(a) An employee, in bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee’s separation of employment as contemplated by §21-5-4 of this

code, is not entitled to seek liquidated damages or attorney's fees from an employer without first making a written demand, as defined in subsection (c) of this section, to the employer seeking the payment of any alleged underpayment or nonpayment as set forth in this section: *Provided*, That upon separation or with the issuance of the final paycheck, the employer shall notify the employee in writing who the employer's authorized representative is and where to send a written demand by both e-mail and regular mail: *Provided, however*, That if the employer fails to provide the required written notice, the employee is not required to comply with the provisions of this section. Upon receiving a written demand, the employer has seven calendar days from receipt to correct the alleged underpayment or nonpayment of the wages and fringe benefits due. If, after seven days, the employer has not corrected the alleged underpayment or nonpayment, or paid all undisputed amounts due to the employee, the employee may seek liquidated damages and attorney's fees. Nothing in this section prohibits the employee from presenting a claim under this article without making a written demand to the employer.

(b) In a class action lawsuit brought under this article for the underpayment or nonpayment of wages and fringe benefits due upon the employees' separation of employment, the employee, prior to the filing of the class action, shall submit a written demand stating it is a demand for all other employees similarly situated for the underpayment or nonpayment of their wages and fringe benefits: *Provided*, That if only the underpayment or nonpayment of wages and fringe benefits of the named employee is corrected, a class action may proceed for the underpayment or nonpayment of wages and fringe benefits still owed to the other members of the class.

(c) For purposes of this section, a 'written demand' means any writing, including e-mail, from or on behalf of an employee stating that the employer has not paid all of the wages or fringe benefits which the employee is owed."

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 2646** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5-4a, relating to providing a safe harbor for employers to correct underpayment or nonpayment of wages and fringe benefits due to separated employees prior to the filing of a lawsuit; prohibiting an employee from seeking liquidated damages or attorney's fees when bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee's separation of employment without first making a written demand to the employer; requiring the employer to inform the employee in writing of who the authorized representative is and where to send a written demand; exempting employee from compliance where employer fails to provide written notice; providing a time limit during which the employer must correct the nonpayment or underpayment; permitting an employee to file a written demand with the employer on behalf of a class; and allowing the class action to proceed if only the named employee is paid; and defining the term 'written demand'.”

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. 622**), and there were—yeas 53, nays 45, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, J. Jeffries, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin,

Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Storch, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Porterfield and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2646) 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 passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2892**, Including digital and virtual information in the definition of property that can be searched and seized by a warrant.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 1A. SEARCH AND SEIZURE.**

**§62-1A-2. Same — Grounds for issuance; property defined.**

(1) A warrant may be issued under this article to search for and seize any property

(a) Stolen, embezzled, or obtained by false pretenses; or

(b) Designed or intended for use or which is or has been used as a means of committing a criminal offense; or

(c) Manufactured, sold, kept, concealed, possessed, controlled, or designed or intended for use or which is or has been used, in violation of the criminal laws of this state ~~heretofore or hereinafter enacted.~~

(2) The As used in this section, the term ‘property’ shall include documents, books, and papers, electronic and digital information, including, but not limited to, social media accounts, and any other tangible objects.

(a) For purposes of this section, ‘electronic and digital information’ means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include (1) any wire or oral communication; (2) any communication made through a tone-only paging device; or (3) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.

(b) A search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall state with particularity the item, application, program, or information sought.

(c) A search warrant for electronic or digital information issued pursuant to this section or Rule 41 of the Rules of Criminal Procedure may be executed or served in any state where the electronic or digital information is stored or where the person or entity in possession of the electronic or digital information does business or resides.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 2892** – “A Bill to amend and reenact §62-1A-2 of the Code of West Virginia, 1931, as amended, relating to including electronic and digital information in the definition of property that can be searched and seized by a search warrant and clarifying that a search warrant issued for a computer, computer network, or other device containing electronic or digital information includes the search of the contents of that device; requiring particularity regarding items, applications, property and information to be served; clarifying that search warrants for electronic or digital information may be served or executed in any county of this state or in any state where the information to be seized is stored or where the person or entity storing the information does business or resides.”

With the further amendment, sponsored by Delegate Shott, being as follows:

On page two, section two, lines twenty through twenty-three by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

“(c) A search warrant issued pursuant to this section or Rule 41 of the Rules of Criminal Procedure may be executed or served to the extent it is constitutionally permissible anywhere the electronic or digital information is stored, capable of being produced or where the person or entity in possession of the electronic or digital information does business or resides.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 623**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, McGeehan, Paynter and Toney.

Absent and Not Voting: Atkinson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2892) passed.

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

**H. B. 4039**, Providing limitations on nuisance actions against fire department and emergency medical services.

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

Senators Smith, Cline and Hardesty.

On motion of Delegate Summers, the House of Delegates agreed to the appointment of a Committee of Conference 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 Bibby, J. Kelly and N. Brown.

*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 passed, without amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4019**, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4088**, Disposition of funds from certain oil and natural gas wells due to unknown or unlocatable interest owners.

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. 4094**, Continuing the Foster Care Ombudsman.

Delegate Kessinger moved that the House concur in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 9. FOSTER CARE OMBUDSMAN PROGRAM.**

**§49-9-101. The Foster Care Ombudsman.**

(a) There is continued within the Office of the Inspector General the position of the West Virginia Foster Care Ombudsman. The Office of the Inspector General shall employ a Foster Care Ombudsman to affect the purposes of this article.

(b) In addition to the duties provided in §9-5-27 of this code, the duties of the Foster Care Ombudsman include, but are not limited to, the following:

(1) Establishing a statewide procedure to receive, investigate, and resolve complaints filed on behalf of a foster child, foster parent, or kinship parent, or, on the Foster Care Ombudsman's own initiative, on behalf of a foster child, relating to action, inaction, or decisions of the state agency, child-

placing agency, or residential care facility which may adversely affect the foster child, foster parent, or kinship parent;

(2) Review periodically and make appropriate recommendations for the policies and procedures established by any state agency providing services to foster children, foster parents, kinship parents, including, but not limited to, the system of providing foster care and treatment;

(3) Pursuant to an investigation, provide assistance to a foster child, foster parent, or kinship parent who the Foster Care Ombudsman determines is in need of assistance, including, but not limited to, collaborating with an agency, provider, or others on behalf of the best interests of the foster child;

(4) Recommend action when appropriate, including, but not limited to, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil, and special rights of foster children who reside in this state;

(5) Conduct programs of public education when necessary and appropriate;

(6) Have input into the creation of, and thereafter make recommendations consistent with, the foster children, foster parents, and kinship parents bill of rights;

(7) Take appropriate steps to advise the public of the services of the Foster Care Ombudsman, the purpose of the ombudsman, and procedures to contact the office; and

(8) Make inquiries and obtain assistance and information from other state governmental agencies or persons as the Foster Care Ombudsman requires for the discharge of his or her duties.

#### **§49-9-102. Investigation of complaints.**

(a) Upon receipt of a complaint filed on behalf of a foster child, foster parent, or kinship parent, on his or her own initiative or by court order within the scope of the Foster Care Ombudsman Program, the Foster Care Ombudsman shall investigate, except as provided in §49-9-102(c), any act, practice, policy, or procedure of any state agency, child-placing agency, or residential care facility which affects the health, safety, welfare, or rights of a foster child, a foster parent, or a kinship parent.

(b) Investigative activities of the Foster Care Ombudsman include, but are not limited to: information gathering, mediation, negotiation, informing parties of the status of the investigation, notification to any aggrieved party of alternative processes, reporting of suspected violations to a licensing or certifying agency, and the reporting of suspected criminal violations to the appropriate authorities.

(c) The Foster Care Ombudsman need not investigate any complaint upon determining that:

(1) The complaint is trivial, frivolous, vexatious, or not made in good faith;

(2) The complaint has been too long delayed to justify present investigation;

(3) The resources available, considering the established priorities, are insufficient for an adequate investigation;

(4) The matter complained of is not within the investigatory authority of the Foster Care Ombudsman; or



(5) A real or apparent conflict of interest exists and no other person within the office is available to investigate the complaint in an impartial manner.

(d) The Office of the Inspector General and other appropriate state governmental agencies may establish and implement cooperative agreements for receiving, processing, responding to, and resolving complaints involving state governmental agencies under the provisions of this section.

(e) Beginning with the third quarter of 2020, the Foster Care Ombudsman shall submit a written report to the Governor containing:

(1) The number of complaints;

(2) The types of complaints;

(3) The location of the complaints;

(4) How the complaints are resolved; and

(5) Any other information the Foster Care Ombudsman feels is appropriate.

(f) Beginning in December 2020, the Foster Care Ombudsman shall summarize the quarterly reports and present that information to the Legislative Oversight Commission on Health and Human Resources Accountability.

#### **§49-9-103. Access to foster care children.**

(a) The Foster Care Ombudsman shall, with proper identification, have access to a foster family home, a state agency, a child-placing agency, or a residential care facility for the purposes of investigations of a complaint. The Foster Care Ombudsman may enter a foster family home, a state agency, a child-placing agency, or a residential care facility at a time appropriate to the complaint. The visit may be announced in advance or be made unannounced as appropriate to the complaint under investigation. Upon entry, the Foster Care Ombudsman shall promptly and personally advise the person in charge of his or her presence. If entry is refused by the person in charge, the Foster Care Ombudsman may apply to the magistrate court of the county in which a foster family home, a state agency, a child-placing agency, or a residential care facility is located for a warrant authorizing entry, and the court shall issue an appropriate warrant if it finds good cause therefor.

(b) For activities other than those specifically related to the investigation of a complaint, the Foster Care Ombudsman, upon proper identification, shall have access to a foster family home, a state agency, a child-placing agency, or a residential care facility between the hours of 8:00 a.m. and 8:00 p.m. in order to:

(1) Provide information on the Foster Care Ombudsman Program to a foster child, foster parents, or kinship parents;

(2) Inform a foster child, a foster parent, or a kinship parent of his or her rights and entitlements, and his or her corresponding obligations, under applicable federal and state laws; and

(3) Direct the foster child, the foster parents, or the kinship parents to appropriate legal resources;

(c) Access to a foster family home, a state agency, a child-placing agency, or a residential care facility under this section shall be deemed to include the right to private communication with the foster child, the foster parents, or the kinship parents.

(d) A Foster Care Ombudsman who has access to a foster family home, a state agency, a child-placing agency, or a residential care facility under this section shall not enter the living area of a foster child, foster parent, or kinship parent without identifying himself or herself to the foster child, foster parent, or kinship parent. After identifying himself or herself, an ombudsman shall be permitted to enter the living area of a foster child, foster parent, or kinship parent unless that foster child, foster parent, or kinship parent communicates on that particular occasion the foster child, foster parents', or kinship parents' desire to prevent the ombudsman from entering. A foster child, foster parent, or kinship parent has the right to terminate, at any time, any visit by the Foster Care Ombudsman.

(e) Access to a foster family home, a state agency, a child-placing agency, or a residential care facility pursuant to this section includes the right to tour the facility unescorted.

#### **§49-9-104. Access to records.**

(a) The Foster Care Ombudsman is allowed access to any foster child's, foster parents' or kinship parents' records, including medical records reasonably necessary to any investigation, without fee.

(b) The Foster Care Ombudsman is allowed access to all records of any foster family home, state agency, child-placing agency, or residential care facility that is reasonably necessary for the investigation of a complaint, including, but not limited to, incident reports; dietary records; policies and procedures that a foster family home, a state agency, a child-placing agency, or a residential care facility are required to maintain under federal or state law; admission agreements; staffing schedules; or any document depicting the actual staffing pattern.

#### **§49-9-105. Subpoena powers.**

(a) The Foster Care Ombudsman may, in the course of any investigation:

(1) Apply to the circuit court of the appropriate county or the Circuit Court of Kanawha County for the issuance of a subpoena to compel at a specific time and place, by subpoena, the appearance, before a person authorized to administer oaths, the sworn testimony of any person whom the Foster Care Ombudsman reasonably believes may be able to give information relating to a matter under investigation; or

(2) Apply to the circuit court of the appropriate county or the Circuit Court of Kanawha County for the issuance of a subpoena duces tecum to compel any person to produce at a specific time and place, before a person authorized to administer oaths, any documents, books, records, papers, objects, or other evidence which the Foster Care Ombudsman reasonably believes may relate to a matter under investigation.

(b) A subpoena or subpoena duces tecum applied for by the Foster Care Ombudsman may not be issued until a circuit court judge in term or vacation thereof has personally reviewed the application and accompanying affidavits and approved, by a signed order entered by the judge, the issuance of the subpoena or subpoena duces tecum. Subpoenas or subpoenas duces tecum applied for pursuant to this section may be issued on an ex parte basis following review and approval of the application by the judge in term or vacation thereof.

(c) The Attorney General shall, upon request, provide legal counsel and services to the Foster Care Ombudsman in all administrative proceedings and in all proceedings in any circuit court and the West Virginia Supreme Court of Appeals.

**§49-9-106. Cooperation among government departments or agencies.**

(a) The Foster Care Ombudsman shall have access to the records of any state government agency reasonably necessary to any investigation. The Foster Care Ombudsman shall be notified of and be allowed to observe any survey conducted by a government agency affecting the health, safety, welfare, or rights of the foster child, the foster parents, or the kinship parents.

(b) The Foster Care Ombudsman shall develop procedures to refer any complaint to any appropriate state government department, agency, or office.

(c) When abuse, neglect, or exploitation of a foster child is suspected, the Foster Care Ombudsman shall make a referral to the Bureau for Children and Families, Office of Health Facility Licensure and Certification, or both.

(d) Any state government department, agency, or office that responds to a complaint referred to it by the Foster Care Ombudsman Program shall make available to the Foster Care Ombudsman copies of inspection reports and plans of correction, and notices of any citations and sanctions levied against the foster family home, the child-placing agency, or the residential care facility identified in the complaint.

**§49-9-107. Confidentiality of investigations.**

(a) Information relating to any investigation of a complaint that contains the identity of the complainant or foster child, foster parent, or kinship parent shall remain confidential except:

(1) Where disclosure is authorized in writing by the complainant foster child, foster parent, kinship parent, or the guardian.

(2) Where disclosure is necessary to the Bureau for Children and Families in order for such office to determine the appropriateness of initiating an investigation regarding potential abuse, neglect, or emergency circumstances; or

(3) Where disclosure is necessary to the Office of Health Facility Licensure and Certification in order for such office to determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure, certification, or both.

(b) Notwithstanding any other section within this article, all information, records, and reports received by or developed by the Foster Care Ombudsman Program which relate to a foster child, foster parent, or kinship parent, including written material identifying a foster child, foster parent, or kinship parent, are confidential pursuant to §49-5-101 *et seq.* of this code, and are not subject to the provisions of §29B-1-1 *et seq.* of this code, and may not be disclosed or released by the Foster Care Ombudsman Program, except under the circumstances enumerated in this section.

(c) Nothing in this section prohibits the preparation and submission by the Foster Care Ombudsman of statistical data and reports, as required to implement the provisions of this article or any applicable federal law, exclusive of any material that identifies any foster child, foster parent, kinship parent, or complainant.

(d) The Inspector General shall have access to the records and files of the Foster Care Ombudsman Program to verify its effectiveness and quality where the identity of any complainant or foster child, foster parent, or kinship parent is not disclosed.

**§49-9-108. Limitations on liability.**

(a) The Foster Care Ombudsman participating in an investigation carried out pursuant to this article who is performing his or her duties is immune from civil liability that otherwise might result by reason of his or her participation in the investigation, as long as such participation is not violative of any applicable law, rule, or regulation, and done within the scope of his or her employment and in good faith.

(b) If an act or omission by the Foster Care Ombudsman or an act in good faith pursuant to a specific foster child, foster parent, or kinship parent complaint causes a foster child's, foster parents', or kinship parents' rights to be violated, no foster family home, state agency, child-placing agency, or residential care facility, its owners, administrators, officers, director, agents, consultants, employees, or any member of management may be held civilly liable as a result of the act or omission.

**§49-9-109. Willful interference; retaliation; penalties.**

(a) An individual who willfully interferes with or impedes the Foster Care Ombudsman in the performance of his or her official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(b) An individual who institutes or commits a discriminatory, disciplinary, retaliatory, or reprisal action against a foster child, foster parent, or kinship parent for having filed a complaint with or provided information in good faith to the Foster Care Ombudsman in carrying out the duties pursuant to this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(c) An individual violating the provisions of subsection (a) or (b) of this section is, for the second or any subsequent offense under either of these subsections, guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$250. Each day of a continuing violation after conviction shall be considered a separate offense.

(d) Nothing in this section infringes upon the rights of an employer to supervise, discipline, or terminate an employee for other reasons.

**§49-9-110. Funding for Foster Care Ombudsman Program.**

The Foster Care Ombudsman Program shall receive such funds appropriated by the Legislature for the operation of the program."

Delegate McGeehan requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The House then concurred in the Senate amendments.

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. 624**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4094) 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 passed, without amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4165**, West Virginia Remembers Program.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4360**, Exempting certain persons from heating, ventilating, and cooling system licensing requirements.

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. 4361**, Relating to insurance law violations.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 41. INSURANCE FRAUD PREVENTION ACT.**

**§33-41-2. Definitions.**

As used in this article:

~~(1)~~ (a) ‘Benefits’ mean money payments, goods, services, or other thing of value paid in response to a claim filed with an insurer based upon a policy of insurance.

~~(2)~~ (b) ‘Business of insurance’ means the writing of insurance, including the writing of workers’ compensation insurance under the provisions of §23-1-1 *et seq.* of this code, self-insurance by an employer or employer group for workers’ compensation risk including the risk of catastrophic injuries under the provisions of §23-1-1 *et seq.* of this code, or the reinsuring of risks by an insurer, including acts necessary or incidental to writing insurance or reinsuring risks and the activities of persons who act as or are officers, directors, agents, or employees of insurers, or who are other persons authorized to act on their behalf.

~~(3)~~ (c) ‘Claim’ means an application or request for payment or benefits provided under the terms of a policy of insurance.

~~(4)~~ (d) ‘Commissioner’ means the Insurance Commissioner of West Virginia or his or her designee.

~~(5)~~ (e) 'Fraudulent insurance act' means an act or omission committed by a person who knowingly and with intent to defraud misrepresents or conceals any material information concerning one or more of the following:

(1) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker, or its agent, false information as part of, in support of, or concerning a fact material to one or more of the following:

(A) An application for the issuance or renewal of an insurance policy or reinsurance contract;

(B) The rating of an insurance policy or reinsurance contract;

(C) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract;

(D) Premiums paid on an insurance policy or reinsurance contract;

(E) Payments made in accordance with the terms of an insurance policy or reinsurance contract;

(F) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction;

(G) The financial condition of an insurer or reinsurer;

(H) The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one or more lines of insurance or reinsurance in all or part of this state by an insurer or reinsurer;

(I) The issuance of written evidence of insurance; or

(J) The reinstatement of an insurance policy.

(2) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer, reinsurer, or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction;

(3) Removal, concealment, alteration, or destruction of the assets or records of an insurer, reinsurer, or other person engaged in the business of insurance;

(4) Willful embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits, or other property of an insurer, reinsurer, or person engaged in the business of insurance;

(5) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of insurance; or

(6) Attempt to commit, aiding, or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subdivision.

~~(5)~~ (f) 'Health care provider' means a person, partnership, corporation, facility, or institution licensed by, or certified in, this state or another state, to provide health care or professional health care services, including, but not limited to, a physician, osteopathic physician, hospital, dentist, registered or licensed practical nurse, optometrist, pharmacist, podiatrist, chiropractor, physical therapist, or psychologist.

~~(6)~~ (g) 'Insurance' means a contract or arrangement in which a person undertakes to:

~~(A)~~ (1) Pay or indemnify another person as to loss from certain contingencies called 'risks', including through reinsurance;

~~(B)~~ (2) Pay or grant a specified amount or determinable benefit to another person in connection with ascertainable risk contingencies;

~~(C)~~ (3) Pay an annuity to another person;

~~(D)~~ (4) Act as surety; or

~~(E)~~ (5) Self-insurance for workers' compensation risk, including the risk of catastrophic injuries ~~under~~ pursuant to the provisions of §23-1-1 *et seq.* of this code.

~~(7)~~ (h) 'Insurer' means a person entering into arrangements or contracts of insurance or reinsurance. Insurer includes, but is not limited to, any domestic or foreign stock company, mutual company, mutual protective association, farmers' mutual fire companies, fraternal benefit society, reciprocal or interinsurance exchange, nonprofit medical care corporation, nonprofit health care corporation, nonprofit hospital service association, nonprofit dental care corporation, health maintenance organization, captive insurance company, risk retention group, or other insurer, regardless of the type of coverage written, including the writing of workers' compensation insurance or self insurance under the provisions of this code, benefits provided, or guarantees made by each. A person is an insurer regardless of whether the person is acting in violation of laws requiring a certificate of authority or regardless of whether the person denies being an insurer.

~~(8)~~ (i) 'Person' means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, trustees, an unincorporated organization, or any similar business entity, or any combination of the foregoing. 'Person' also includes hospital service corporations, medical service corporations, and dental service corporations as defined in §33-24-1 *et seq.* of this code, health care corporations as defined in, §33-25-1 *et seq.* of this code, or a health maintenance organization organized pursuant to §33-25A-1 *et seq.* of this code.

~~(9)~~ (j) 'Policy' means an individual or group policy, group certificate, contract or arrangement of insurance or reinsurance, coverage by a self-insured employer or employer group for its workers' compensation risk including its risk of catastrophic injuries or reinsurance, affecting the rights of a resident of this state or bearing a reasonable relation to this state, regardless of whether delivered or issued for delivery in this state.

~~(10)~~ (k) 'Reinsurance' means a contract, binder of coverage (including placement slip) or arrangement under which an insurer procures insurance for itself in another insurer as to all or part of an insurance risk of the originating insurer.

~~(11)~~ (l) 'Statement' means any written or oral representation made to any person, insurer or authorized agency. A statement includes, but is not limited to, any oral report or representation; any insurance application, policy, notice or statement; any proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, or other evidence of loss, injury or expense; any bill for services, diagnosis, prescription, hospital or doctor record, X-ray, test result or other evidence of treatment, services or expense; and any application, report, actuarial study, rate request or other document submitted or required to be submitted to any authorized agency. A statement also includes any written or oral representation recorded by electronic or other media.

~~(12)~~ (m) 'Unit' means the insurance fraud unit established pursuant to the provisions of this article acting collectively or by its duly authorized representatives.

**§33-41-4a. Acceptance of forfeiture proceeds by commissioner; creation of special revenue fund; court awards of investigation costs.**

(a) The commissioner may accept proceeds of court ordered forfeiture proceedings involving the prosecution of fraudulent insurance acts.

(b) Forfeiture proceeds shall be deposited into the special revenue account established in subsection (c) of this section, and the commissioner may make expenditures from the fund in order to effectuate the purposes of this article.

(c) The Insurance Fraud Prevention Fund is hereby created. The fund shall be administered by the commissioner and shall consist of all moneys made available from court ordered forfeiture proceedings involving the prosecution of fraudulent insurance acts, including all interest or other return earned from investment of the fund which may be invested in the manner permitted by §12-6C-9 of this code. Expenditures from the fund shall be for the purposes set forth in this article (to provide and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1, *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1, *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2021, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

**§33-41-5. Reporting Mandatory reporting of insurance fraud or criminal offenses otherwise related to the business of insurance.**

(a) A person engaged in the business of insurance having knowledge or a reasonable belief that ~~fraud~~ a fraudulent insurance act or another crime related to the business of insurance is being, will be, or has been committed shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.

(b) Any other person having knowledge or a reasonable belief that a fraudulent insurance act or another crime related to the business of insurance is being, will be, or has been committed may provide to the commissioner the information requested by, and in a manner prescribed by, the commissioner.

~~(b)~~ (c) The commissioner may prescribe a reporting form to facilitate reporting of possible ~~fraud~~ fraudulent insurance acts or other offenses related to the business of insurance for use by persons other than those persons referred to in subsection (a) of this section.

(d) Notwithstanding any other provision of this code, a person engaged in the business of insurance shall furnish and disclose any information, including documents, materials, or other information in its possession concerning a fraudulent insurance act or a suspected fraudulent insurance act to the commissioner. Disclosures provided pursuant to this section are subject to the confidentiality provisions set forth in §33-41-7 of this code.

**§33-41-8. Creation of Insurance Fraud Unit; purpose; duties; personnel qualifications.**

(a) There is established the West Virginia Insurance Fraud Unit within the ~~office~~ offices of the ~~Insurance Commissioner of West Virginia~~ commissioner. The commissioner may employ full-time supervisory, legal, and investigative personnel for the unit who shall be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud within and against the insurance industry to perform the duties of their positions. The director of the ~~fraud~~ unit is a full-time



position and shall be appointed by the commissioner and serve at his or her will and pleasure. The commissioner shall provide office space, equipment, and supplies, and shall employ and train personnel, including legal counsel, investigators, auditors and clerical and other staff that is necessary for the unit to carry out its duties and responsibilities under this article as the commissioner determines is necessary.

(b) ~~The fraud unit may in its discretion~~ It is the duty of the unit to:

(1) Initiate inquiries and conduct investigations when the unit has cause to believe violations of any of the following provisions of this code relating to the business of insurance have been or are being committed: §33-1-1 *et seq.* and §23-1-1 *et seq.* of this code; §61-3-1 *et seq.* of this code; and §61-4-5 of this code. Notwithstanding any provision of this code to the contrary, the ~~fraud~~ unit may, with the agreement of the Director of the Public Employees Insurance Agency, conduct investigations related to possible fraud under §5-16-1 *et seq.* of this code;

(2) Review reports or complaints of alleged fraud related to the business of insurance activities from federal, state, and local law-enforcement and regulatory agencies, persons engaged in the business of insurance and the general public to determine whether the reports require further investigation; ~~and~~

(3) Conduct independent examinations of alleged fraudulent activity related to the business of insurance and undertake independent studies to determine the extent of fraudulent insurance acts; and

(4) Perform any other duties related to the purposes of this article assigned to it by the commissioner.

(c) ~~The Insurance Fraud Unit~~ unit may:

~~(1) Employ and train personnel to achieve the purposes of this article and to employ legal counsel, investigators, auditors and clerical support personnel and other personnel as the commissioner determines necessary from time to time to accomplish the purposes of this article;~~

~~(2)~~ (1) Inspect, copy, or collect records and evidence;

~~(3)~~ (2) Serve subpoenas issued by grand juries and trial courts in criminal matters;

(3) Administer oaths and affirmations;

(4) Share records and evidence with federal, state, or local law-enforcement or regulatory agencies, and enter into interagency agreements. For purposes of carrying out investigations under this article, the unit shall be ~~deemed~~ considered a criminal justice agency under all federal and state laws and regulations and as such shall have access to any information that is available to other criminal justice agencies concerning violations of the insurance laws of West Virginia or related criminal laws;

(5) Make criminal referrals to the county prosecutors;

(6) Execute search warrants and arrest warrants for criminal violations of the insurance laws of West Virginia or related criminal laws: *Provided*, That those persons designated by the commissioner to do so meet the requirements of and are certified as law-enforcement officers under §30-29-5 of this code and the certification is currently active;

(7) Arrest upon probable cause, without a warrant a person found in the act of violating or attempting to violate an insurance law of West Virginia or related criminal law: *Provided*, That those persons designated by the commissioner to do so meet the requirements of and are certified as law-enforcement officers under §30-29-5 of this code and the certification is currently active;

~~(6)~~ (8) Conduct investigations outside this state. If the information the Insurance Fraud Unit unit seeks to obtain is located outside this state, the person from whom the information is sought may make the information available to the insurance fraud unit to examine at the place where the information is located. The Insurance Fraud Unit unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the Insurance Fraud Unit unit, and the Insurance Fraud Unit may respond to similar requests from officials of other states; and

~~(7)~~ The Insurance Fraud Unit may initiate (9) Initiate investigations and participate in the development of, and, if necessary, the prosecution of, any health care provider, including a provider of rehabilitation services, suspected of fraudulent activity related to the business of insurance; and

(10) Initiate investigations and participate in the development of, and, if necessary, the investigation, control, and prosecution of, any workers' compensation fraud, as previously assigned to the workers' compensation fraud and abuse unit created pursuant to §23-1-1b of this code.

~~(8)~~ (d) Specific personnel of the unit designated by the commissioner shall be permitted to may operate vehicles owned or leased for the state displaying Class A registration plates.

~~(9)~~ (e) Notwithstanding any provision of this code to the contrary, specific personnel of the unit designated by the commissioner may carry firearms in the course of their official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency, and Correction, which shall include the successful completion of handgun training provided to law-enforcement officers by the West Virginia State Police: *Provided*, That nothing in this subsection shall be construed to include any person designated by the commissioner as a law-enforcement officer as that term is defined by the provisions of §30-29-1 of this code; and

~~(10)~~ (f) The Insurance Fraud Unit unit shall is not be subject to the provisions of §6-9A-1 et seq. of this code and the investigations conducted by the Insurance Fraud Unit unit and the materials placed in the files of the unit as a result of any such investigation are exempt from public disclosure under the provisions of §29B-1-1 et seq. of this code.

~~(d) The Insurance Fraud Unit shall perform other duties as may be assigned to it by the commissioner.~~

**§33-41-11. Fraudulent claims to insurance companies acts; interference and participation of convicted felons prohibited.**

~~(a) Any person who knowingly and willfully and with intent to defraud submits a materially false statement in support of a claim for insurance benefits or payment pursuant to a policy of insurance or who conspires to do so is guilty of a crime and is subject to the penalties set forth in the provisions of this section.~~

~~(b) Any person who commits a violation of the provisions of subsection (a) of this section where the benefit sought is \$1,000 or more in value is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than one nor more than ten years, fined not more than \$10,000, or both, or in the discretion of the circuit court confined in jail for not more than one year and fined not more than \$10,000, or both.~~

~~(c) Any person who commits a violation of the provisions of subsection (a) of this section where the benefit sought is less than \$1,000 in value is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, fined not more than \$2,500, or both.~~

~~(d) Any person convicted of a violation of this section is subject to the restitution provisions of article eleven a, chapter sixty one of this code.~~

~~(e) In addition to the foregoing provisions, the offenses enumerated in sections twenty four e through twenty four h, inclusive, article three, chapter sixty one of this code are applicable to matters concerning workers' compensation insurance.~~

~~(f) The circuit court may award to the unit or other law enforcement agency investigating a violation of this section or other criminal offense related to the business of insurance its cost of investigation.~~

(a) A person shall not commit a fraudulent insurance act as defined in §33-41-2 of this code.

(b) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this article or investigations of suspected or actual violations of this article.

(c) A person convicted of a felony involving dishonesty or breach of trust, or a felony violation law reasonably related to the business of insurance, shall not participate in the business of insurance.

(d) A person in the business of insurance shall not knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust, or of a felony reasonably related to the business of insurance, to participate in the business of insurance.

### **§33-41-11a. Insurer antifraud initiatives.**

(a) Insurers shall have antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts.

(b) Antifraud initiatives may include:

(1) Fraud investigators, who may be insurer employees or independent contractors; or

(2) An antifraud plan submitted to the commissioner. Antifraud plans submitted to the commissioner are privileged and confidential, are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code, and are not subject to discovery or subpoena in a civil or criminal action.

(c) The commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to set forth requirements or standards for the submission of insurer antifraud plans.

### **§33-41-12. Civil and criminal penalties; injunctive relief; employment disqualification; restitution.**

(a) A person or entity engaged in the business of insurance or a person or entity making a claim against an insurer who violates any provision of this article may be subject to the following:

(1) Where applicable, suspension or revocation of license or certificate of authority or a civil penalty of up to \$10,000 per violation, or where applicable, both. Suspension or revocation of license

or certificate of authority or imposition of civil penalties may be pursuant to an order of the commissioner issued pursuant to the provisions of §33-2-13 of this code. The commissioner's order may require a person found to be in violation of this article to make reasonable restitution to persons aggrieved by violations of this article. The commissioner may assess a person sanctioned pursuant to the provisions of this section the cost of investigation;

(2) Notwithstanding any other provision of law, a civil penalty imposed pursuant to the provisions of this section is mandatory and not subject to suspension;

(3) A person convicted of a felony violation law reasonably related to the business of insurance shall be disqualified from engaging in the business of insurance; and

(4) The commissioner may apply for a temporary or permanent injunction in any appropriate circuit court of this state seeking to enjoin and restrain a person from violating or continuing to violate the provisions of this article or rule promulgated under this article, notwithstanding the existence of other remedies at law. The circuit court shall have jurisdiction of the proceeding and have the power to make and enter an order or judgment awarding temporary or permanent injunctive relief restraining any person from violating or continuing to violate any provision of this article or rule promulgated under the article as in its judgment is proper.

(b) Any person who commits a violation of the provisions of §33-41-11 of this code where the benefit sought is \$1,000 or more in value is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than one nor more than 10 years, fined not more than \$10,000, or both fined and imprisoned, or in the discretion of the court, confined in jail for not more than one year and fined not more than \$10,000, or both fined and confined.

(c) Any person who commits a violation of the provisions of §33-41-11 of this code where the benefit sought is less than \$1,000 in value is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, or fined not more than \$2,500, or both fined and confined.

(d) Any person convicted of a violation of §33-41-11 of this code is subject to the restitution provisions of §61-11A-1 of this code.

(e) A court may award to the unit or other law-enforcement agency investigating a violation of §33-41-11 of this code or other criminal offense related to the business of insurance its cost of investigation.

(f) In addition to the provisions of this section, the offenses enumerated in §61-3-24e through §61-3-24h, inclusive, of this code are applicable to matters concerning workers' compensation insurance."

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4361-** "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §33-41-4a, and §33-41-11a; and to amend and reenact §33-41-2, §33-41-5, §33-41-8, §33-41-11, and §33-41-12 of said code, all relating to insurance law violations; defining 'fraudulent insurance act'; allowing Insurance Commissioner to accept proceeds from court ordered forfeiture proceedings; creating special revenue fund; providing for legislative appropriation of fund; requiring person engaged in the business of insurance to report to the Insurance Commissioner suspected insurance law violations; permitting insurance fraud unit to administer oaths or affirmations, execute search and arrest warrants, make arrests upon probable

cause without a warrant, and participate in the prosecution of workers' compensation fraud; making the commission of a fraudulent insurance act a violation of law; mandating that a person convicted of a felony involving dishonesty, breach of trust, or a law reasonably related to the business of insurance is disqualified from participating in the business of insurance; requiring insurance companies to have antifraud initiatives; allowing the Insurance Commissioner to promulgate rules; and providing for criminal penalties and restitution for insurance law violations."

With the further amendment, sponsored by Delegate Shott, being as follows:

On page five, section four-a, line eleven, after the word article", by striking out the words "(to provide".

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 625**), and there were—yeas 97, nays 2, absent and not voting 1, with the yeas and absent and not voting being as follows:

Nays: J. Jeffries and Paynter.

Absent and Not Voting: Sypolt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4361) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**H. B. 4410**, Permitting directors and executive officers of a banking institution to borrow from a banking institution with which he or she is connected.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4421**, Natural Gas Liquids Economic Development Act.

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. 4452**, Modifying the notice requirements for the redemption of delinquent properties.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED, AND WASTE AND UNAPPROPRIATED LANDS.**

**§11A-3-18. Limitations on tax certificates.**

(a) No lien upon real property evidenced by a tax certificate of sale issued by a sheriff on account of any delinquent property taxes may remain a lien on the real property for a period longer than 18 months after the original issuance of the tax certificate of sale.

(b) All rights of a purchaser to the property, to a lien on the property, or to any other interest in the property, including, but not limited to any right to a tax deed, shall be considered forfeited and expired, and no tax deed is to be issued on any tax sale evidenced by a tax certificate of sale where the certificate has ceased to be a lien pursuant to the provisions of this section and application for the tax deed, pursuant to the provisions of §11A-3-27 of this code, is not pending at the time of the expiration of the limitation period provided in this section.

(c) Whenever a lien evidenced by a tax certificate of sale has expired by reason of the provisions of this section, the State Auditor shall immediately issue and record a certificate of cancellation describing the real estate included in the certificate of purchase or tax certificate and giving the date of cancellation, and the State Auditor shall also make proper entries in his or her records. The State Auditor shall also present a copy of every certificate of cancellation to the sheriff, who shall enter it in the sheriff's records, and the certificate and the record are prima facie evidence of the cancellation of the certificate of sale and of the release of the lien of the certificate on the lands described in the certificate. Failure to record the certificate of cancellation does not extend the lien evidenced by the certificate of sale. The sheriff and State Auditor are not entitled to any fees for the issuing of the certificate of cancellation, nor for the entries in their books made under the provisions of this subsection.

(d) Whenever a purchaser has complied with the notice requirements provided in §11A-3-19 of this code, but has failed to request a deed within the 18 month deadline provided in this section, thereby forfeiting all rights to a tax deed, the purchaser may recover the amounts paid in excess of the taxes owed and expenses incurred by the State Auditor in the processing of the tax lien if, within 30 days of the expiration of the lien, upon a showing of compliance with the ~~provisions~~ provisions of §11A-3-19 of this code, the purchaser files with the State Auditor a request in writing for the refund. A purchaser who fails to file the request within the 30-day period forfeits all rights to the refund.

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in §11A-3-19 of this code, the purchaser may receive an additional 30 days to comply with the notice requirements set forth in §11A-3-19 of this code if, by December 1st of the year following the sale, the purchaser files with the State Auditor a request in writing for the extension and makes payment by cash, cashier check, certified check, or money order in the amount of \$100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-5 of this code, whichever is greater. The fee for issuing the certificate of extension shall be \$25 made payable to the State Auditor.

(f) The State Auditor shall each month draw his or her warrant upon the Treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.

**§11A-3-22. Service of notice.**

(a) As soon as the State Auditor has prepared the notice provided in §11A-3-21 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3-19 of this code.

(b) The notice shall be served upon all persons residing or found in the state in the manner provided for serving process commencing a civil action, or by certified mail, return receipt requested, or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for the notice.

~~(c) If a person entitled to notice is a nonresident of this state, whose address is known to the purchaser, he or she shall be served at that address by certified mail, return receipt requested.~~

~~(d) If the address of a person entitled to notice, whether a resident or nonresident of this state, is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for the publication shall be the county in which the real estate is located. If service by publication is necessary, publication shall be commenced when personal service is required as set forth in this section and a copy of the notice shall at the same time be sent by certified mail, return receipt requested, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.~~

(c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action, or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the State Auditor issues the required notices by certified mail, the State Auditor shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided for serving process commencing a civil action, addressed to 'Occupant', to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the tax lien pursuant to the provisions of §11A-3-19 of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

### **§11A-3-52. What purchaser must do before he or she can secure a deed.**

(a) Within 45 days following the approval of the sale by the auditor pursuant to §11A-3-51 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for the real estate purchased, shall:

(1) Prepare a list of those to be served with notice to redeem and request the deputy commissioner to prepare and serve the notice as provided in §11A-3-54 and §11A-3-55 of this code;

(2) When the real property subject to the tax lien was classified as Class II property, provide the deputy commissioner with the actual mailing address of the property that is subject to the tax lien or liens purchased; and

(3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the costs of preparing and serving the notice.

(b) If the purchaser fails to fulfill the requirements set forth in ~~paragraph~~ subsection (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

(c) After the requirements of ~~paragraph~~ subsection (a) of this section have been satisfied, the deputy commissioner may then sell the property in the same manner as he sells lands which have been offered for sale at public auction but which remain unsold after such auction, as provided in §11A-3-48 of this code.

(d) If the person requesting preparation and service of the notice is an assignee of the purchaser, he or she shall, at the time of the request, file with the deputy commissioner a written assignment to him or her of the purchaser's rights, executed, acknowledged, and certified in the manner required to make a valid deed.

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in subsection (a) of this section, the purchaser may receive an additional 30 days to comply with the notice requirements set forth in subsection (a) of this section if the purchaser files with the State Auditor a request in writing for the extension before the expiration of the time period set forth in subsection (a) of this section and makes payment by cash, cashier check, certified check, or money order in the amount of \$100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-45 of this code, whichever is greater. The fee for issuing the certificate of extension shall be \$25 made payable to the State Auditor.

(f) The State Auditor shall each month draw his or her warrant upon the Treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.

### **§11A-3-55. Service of notice.**

(a) As soon as the deputy commissioner has prepared the notice provided for in §11A-3-54 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3- 52 of this code. Such notice shall be mailed and, if necessary, published at least 45 days prior to the first day a deed may be issued following the deputy commissioner's sale.

(b) The notice shall be served upon all such persons residing or found in the state in the manner provided for serving process commencing a civil action or by certified mail, return receipt requested or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for such notice.

~~If any person entitled to notice is a nonresident of this state, whose address is known to the purchaser, he shall be served at such address by certified mail, return receipt requested.~~



~~If the address of any person entitled to notice, whether a resident or nonresident of this state, is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for such publication shall be the county in which such real estate is located. If service by publication is necessary, publication shall be commenced when personal service is required as set forth above, and a copy of the notice shall at the same time be sent by certified mail, return receipt requested, to the last known address of the person to be served. The return of service of such notice, and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the auditor in his office, together with any return receipts for notices sent by certified mail.~~

(c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall be at the same time be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the deputy commissioner issues the required notices by certified mail, the deputy commissioner shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided for serving process commencing a civil action, addressed to 'Occupant', to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the property, pursuant to the provisions of §11A-3-52 of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4452-** "A Bill to amend and reenact §11A-3-18, §11A-3-22, §11A-3-52, and §11A-3-55 of the Code of West Virginia, 1931, as amended, all relating generally to notice requirements on tax collections and sale of delinquent property conducted by the State Auditor; allowing purchaser extension of time for compliance with notice requirements upon written request to State Auditor and payment of fees; requiring State Auditor to pay fees for extensions of time to board of education for county where property is located; revising procedure for serving or providing notice to certain persons having interest in property to be sold."

With the further amendment, sponsored by Delegate Shott, being as follows:

On page seven, section fifty-five, line thirty-two, after the word “shall” by inserting a comma and striking out the word “be”;

And,

On page seven, section fifty-five, line thirty-three, after the word “time”, by inserting a comma.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 626**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Paynter, Phillips, Porterfield and Wilson.

Absent and Not Voting: McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4452) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4484**, Relating to the Hazardous Waste Management Fund.

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:

**H. B. 4502**, Relating to insurance adjusters.

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

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **“ARTICLE 12B. ADJUSTERS.**

##### **§33-12B-1. Definitions.**

~~(a) An ‘adjuster’ is any individual who, for compensation, fee or commission, investigates and settles claims arising under property, casualty or surety insurance contracts, on behalf solely of either the insurer or insured. A licensed attorney who is qualified to practice law in this state is deemed not to be an adjuster for the purposes of this article~~

~~(b)~~ (a) ‘Automated claims adjudication system’ means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims which:

(1) May only be used by a licensed adjuster, licensed producer, or supervised individuals operating pursuant to ~~section four a of this article~~ §33-12B-3(a)(14) of this code;

(2) Must comply with all claims payments requirements of the insurance code; and

(3) Must be certified as compliant with this section by a licensed adjuster that is an officer of the entity which employs the individuals operating pursuant to ~~section four a of this article~~ §33-12B-3(a)(14) of this code.

(b) 'Business entity' means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(c) 'Company adjuster' means an adjuster representing the interests of the insurer, including an independent contractor and a salaried employee of the insurer who is a staff employee of an insurance company, who is paid by the insurance company, and who investigates, negotiates, or settles claims.

(d) 'Home state' means the District of Columbia or any state, commonwealth, or territory of the United States in which an adjuster maintains his or her principal place of residence or business and in which he or she is licensed to act as a resident adjuster. If a person's principal place of residence or business does not license adjusters for the type of adjuster license sought in this state, he or she shall designate as his or her home state any state in which he or she has such a license.

(e) 'Independent adjuster' means a person who:

(1) Is an individual, a business entity, an independent contractor, or an employee of a contractor, who contracts for compensation with insurers or self-insurers;

(2) Is one whom the insurer's or self-insurer's tax treatment of the individual is consistent with that of an independent contractor, rather than as an employee, as defined in the Internal Revenue Code, United States Code, Title 26, Subtitle C; and

(3) Investigates, negotiates, or settles property, casualty, or workers' compensation claims for insurers or self-insurers.

(f) 'Individual' means a natural person.

(g) 'Insurance emergency' means a temporary situation, as declared by the commissioner pursuant to §33-2-10a of this code, when the number of licensed adjusters in this state is inadequate to meet the demands of the public.

(h) 'Person' means an individual or business entity.

~~(e)~~ (j) 'Public adjuster' means an independent contractor representing solely the financial interests of the insured named in the policy any person who, for compensation or any other thing of value on behalf of the insured:

(1) Acts or aids, solely in relation to first-party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(2) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(3) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first-party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy on behalf of an insured.

~~(f) 'Crop adjuster' means a person who adjusts crop insurance claims under the federal crop insurance program administered by the United States Department of Agriculture~~

### **§33-12B-2. License required.**

(a) No person may act or hold himself, herself, or itself out as a company adjuster, an independent adjuster, or a public adjuster in this state unless the person is licensed in accordance with this article or is exempt from licensure under this article.

(b) The license shall contain the licensee's name, address, personal identification number, the date of issuance, expiration date, and any other information the commissioner deems necessary.

(c) A person licensed as a public adjuster shall not misrepresent to a claimant that he, she, or it is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the public adjuster.

(d) The commissioner shall license an individual as a company adjuster, independent adjuster, or public adjuster. An individual may be licensed concurrently under separate licenses but shall not act as an adjuster representing the interests of the insured and the insurer with respect to the same claim.

### **§33-12B-3. ~~Company, public and crop adjusters; concurrency; direct conflict prohibited~~ Exemptions from license requirement.**

~~The commissioner shall license an individual as a company adjuster, public adjuster or crop adjuster. An individual may be licensed concurrently under separate licenses but shall not act as an adjuster representing the interests of the insured and the insurer with respect to the same claim~~

(a) Notwithstanding any other provisions of this article, a company adjuster license or independent adjuster license shall not be required of the following:

(1) Attorneys-at-law admitted to practice in this state, when acting in their professional capacity as an attorney;

(2) A person employed only for the purpose of obtaining facts surrounding a claim or furnishing technical assistance to a licensed company or independent adjuster;

(3) An individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses, investigate or determine coverage, or determine claim payments;

(4) A person who solely performs executive, administrative, managerial, or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle insurance claims with policyholders, claimants, or their legal representative;

(5) A licensed health care provider or its employee who is not responsible for determining compensability;

(6) A managed care organization or any of its employees or an employee of any organization providing managed care services, so long as the managed care organization or employee referenced herein is not determining compensability;

(7) A person who settles reinsurance or subrogation claims between insurers;

(8) An officer, director, or manager of an authorized insurer, surplus lines insurer, a risk retention group, or an attorney-in-fact of a reciprocal insurer;

(9) A manager of the United States branch of an alien insurer;

(10) A person who investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims;

(11) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer;

(12) A licensed individual producer, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer to whom claim authority has been granted by the insurer;

(13) A business entity licensed under the authority of §33-46-1 *et seq.* of this code;

(14) Individuals who collect claim information from, or furnish claim information to, insureds or claimants, and who conduct data entry, including entering data into an automated claims adjudication system are exempt from licensure under this article: *Provided*, That the individuals are under the supervision of a licensed adjuster or licensed producer: *Provided however*, That no more than 25 persons are under the supervision of one licensed adjuster or licensed producer; or

(15) Company adjusters employed by an insurer outside of this state who adjust claims solely by telephone, fax, United States mail, and electronic mail, and who do not physically enter this state in the course of adjusting such claims: *Provided*, That such adjusters shall be subject to the jurisdiction of, and regulation by, the commissioner in regard to their adjustment of West Virginia claims: *Provided, however*, That the commissioner may require such adjusters to complete continuing education, not to exceed requirements pursuant to §33-12B-13(d) of this code, to address any deficiencies with respect to their claims handling practices.

(b) Notwithstanding any other provisions of this article, a public adjuster license shall not be required of the following:

(1) Attorneys-at-law admitted to practice in this state, when acting in their professional capacity as an attorney;

(2) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(3) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster;

(4) A licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(5) A person who settles subrogation claims between insurers.

**§33-12B-4. License required; exception Temporary licensure for emergency company or independent adjusters.**

~~No person shall in West Virginia act as or hold out to be an adjuster unless then licensed therefor pursuant to this article: *Provided*, That the provisions of this section do not apply to emergency insurance adjusters as defined in section eleven-a of this article~~

(a) In the event of a declared insurance emergency, an insurer shall notify the commissioner with an application for temporary emergency licensure for each individual who will act as an emergency company adjuster or emergency independent adjuster on behalf of the insurer.

(b) A person who is otherwise qualified to adjust claims, but not already licensed in this state when the insurance emergency has been declared, may act as an emergency company or independent adjuster and adjust claims if, within five days of the declared insurance emergency, the insurer notifies the commissioner by providing the following information in a format proposed by the commissioner:

(1) Name and address of the individual;

(2) National Producer Number of the individual if the individual has a National Producer Number;

(3) Name of the insurer which the company or independent adjuster will represent;

(4) Effective date of the contract between the insurer and independent adjuster, if applicable;

(5) Insurance emergency or loss control number;

(6) Insurance emergency event name; and

(7) Any other information the commissioner deems necessary.

(c) An emergency company or independent adjuster's license shall remain in force for a period not to exceed 90 days, unless extended for an additional period by the commissioner.

(d) The fee for emergency company or independent adjuster application for licensure shall be in an amount specified in §33-12B-8 of this code. The fee shall be due and payable at the time of application for licensure.

**§33-12B-4a. Exemptions from license.**

[Repealed]

**§33-12B-5. Qualifications for resident adjuster's license; examination; exemptions.**

~~(a) For the protection of the people of West Virginia, the commissioner shall not issue, renew or permit to exist any adjuster's license, except to an individual who~~ An individual applying for a resident adjuster license shall make application to the commissioner and declare under penalty of suspension,

revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

(1) Is 18 years of age or more;

(2) Is a resident of West Virginia, except for nonresident adjusters as provided in section nine of this article or eligible to designate West Virginia as his or her home state;

(3) Satisfies the commissioner that he or she is trustworthy, and competent, reliable, and of good reputation, evidence of which may be determined by the commissioner;

(4) Has a business or mailing address in this state for acceptance of service of process or, if residing outside of this state, acknowledges that by adjusting claims in this state he or she is subject to this state's jurisdiction, pursuant to §56-3-33 of this code, and automatically appoints the West Virginia Secretary of State as his or her agent for service of process;

(5) Has not committed any act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license as set forth in §33-12B-11 of this code;

(6) Has successfully passed the written examination for the line or lines of authority for which the person has applied; and

(7) Has paid the fees applicable to licensure.

(b)(1) The commissioner may, at his or her discretion, test the competency of an applicant for a license under this section by examination. However, in order to qualify for a crop adjuster license, an applicant must pass a written examination that tests the knowledge of the individual concerning the insurance laws of this state and the duties and responsibilities of a multi-peril crop adjuster. In lieu of such an examination, the commissioner may accept certification that the individual has passed a proficiency examination approved by the federal Risk Management Agency. A resident individual applying for an adjuster license shall pass a written examination unless exempt pursuant to §33-12B-5(b)(5) or §33-12B-5(b)(6) of this code. The examination shall test the knowledge of the individual concerning the line or lines of authority for which application is made, if applicable, the duties and responsibilities of an adjuster, and the insurance laws and rules of this state. However, to qualify for an adjuster license with the crop line of authority, the commissioner may accept, in lieu of such an examination, certification that the individual has passed a proficiency examination approved by the United States Department of Agriculture Risk Management Agency.

(2) If such an examination is required Each examinee shall pay a nonrefundable \$25 examination fee for each examination to the commissioner, which fees shall be used for the purposes set forth in §33-3-13 of this code. The commissioner may, at his or her discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the commissioner, and examination fees charged by such service shall be paid by the applicant.

(3) An individual who fails to appear for the examination as scheduled, or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(4) An individual who initially fails to pass an examination required by this section is limited to seven additional attempts to pass the examination.

(5) An individual who applies for an adjuster license in this state, who was previously licensed for the same lines of authority in another jurisdiction, shall not be required to complete any prelicensing examination. This exemption is only available if the individual is currently licensed in that jurisdiction, or if the application is received within 90 days of the cancellation of the applicant's previous license, and if the prior jurisdiction issues a certification that, at the time of cancellation, the applicant was in good standing in that jurisdiction or the jurisdiction's adjuster database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the adjuster is or was licensed in good standing for the line of authority requested. The certification must be of a license with the same line of authority for which the individual has applied.

(6) An individual licensed as an adjuster in another jurisdiction who moves to this state shall make application within 90 days of establishing legal residence to become a resident licensee pursuant to this section: *Provided*, That no pre-licensing examination shall be required of that individual to obtain any line of authority previously held in the prior jurisdiction, except where the commissioner determines otherwise by rule.

(7) Examinations may be developed and conducted under rules proposed by the commissioner.

(8) Examinations required by this subsection are applicable for individual adjusters first licensed on or after July 1, 2021, or for individual adjusters who add a line of authority to an existing adjuster license on or after July 1, 2021.

(c) A business entity applying for a resident independent or public adjuster license shall make application to the commissioner on forms proposed by the commissioner and shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:

(1) Is eligible to designate West Virginia as its home state;

(2) Has a business or mailing address in this state for acceptance of service of process;

(3) Has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws and rules of this state; and

(4) Has not committed an act that is a ground for probation, suspension, revocation, or refusal of an independent or public adjuster's license as set forth in §33-12B-11 of this code.

(e)(d) The requirements of this section do not apply to temporary licenses issued to emergency company adjusters or emergency independent adjusters.

#### **§33-12B-6. Application Authorization for criminal history record check; fees.**

(a) Application for an adjuster's license or renewal thereof or emergency adjusters' licenses shall be made to the commissioner upon a form prescribed by him and shall contain such information and be accompanied by such supporting documents as the commissioner may require, and the commissioner may require such application to be made under the applicant's oath. In furtherance of the national goal of promoting uniformity and reciprocity among the states, commonwealths, territories, and the District of Columbia with regard to adjuster licensing, this section sets forth the requirements to obtain access to the Federal Bureau of Investigation Criminal Justice Information Services Division criminal history record information and to secure information or reports from the Federal Bureau of Investigation Criminal Justice Information Services Division. The scope of this



section is to set forth the applicability of the criminal history record check to applicants for a home state insurance adjuster license.

(b) As used in this section, the following terms have the meanings ascribed in this subsection, unless a different meaning is clearly required by the context:

(1) 'Applicant' means a natural person applying for:

(A) An initial home state license as an insurance adjuster;

(B) An additional line of authority under an existing home state insurance adjuster license where a criminal history record check has not been obtained; or

(C) A resident insurance adjuster license under change of home state provisions.

'Applicant' does not mean a person applying for renewal or continuation of a home state insurance adjuster license or a nonresident insurance adjuster license.

(2) 'Fingerprint' means an impression of the lines on the finger taken for the purpose of identification. The impression may be obtained electronically or in ink converted to an electronic format.

(c) In order to make a determination of adjuster license eligibility, the commissioner is authorized to require fingerprints of applicants and to submit the fingerprints and the fee required to perform a criminal history record check to the West Virginia State Police and to the Federal Bureau of Investigation.

(d) The commissioner shall require a criminal history record check on each applicant in accordance with this section. The commissioner shall require each applicant to submit a full set of fingerprints, including a scanned file from a hard copy fingerprint, in order for the commissioner to obtain and receive national criminal history records from the Federal Bureau of Investigation's Criminal Justice Information Services Division.

(e) The commissioner shall collect a fee from each applicant in an amount sufficient to cover:

(1) The cost of the collection and transmittal of fingerprints by persons, including local law enforcement agencies that are approved by the commissioner to capture fingerprints, to the West Virginia State Police and the Federal Bureau of Investigation; and

(2) The cost of any amounts charged by the West Virginia State Police and the Federal Bureau of Investigation to perform the criminal history record checks.

(f) The commissioner may contract for the collection and transmission of fingerprints authorized under this section and may order that the fee for collecting and transmitting fingerprints be payable directly by the applicant to the contractor.

(g) The commissioner is authorized to receive criminal history record information directly from the Federal Bureau of Investigation, in lieu of via transmission of the information from the Federal Bureau of Investigation to the West Virginia State Police.

(h) The commissioner shall treat and maintain an applicant's fingerprints and any criminal history record information obtained under this section as confidential and shall apply security measures consistent with the Federal Bureau of Investigation's Criminal Justice Information Services Division

standards for the electronic storage of fingerprints and necessary identifying information. The commissioner shall limit the use of records solely to the purposes authorized in this section. The fingerprints and the criminal history record information in the custody of the commissioner are not subject to subpoena, other than one issued in a criminal action or investigation, are confidential by law and privileged, and are not subject to discovery or admissible in evidence in any private civil action.

### **§33-12B-7. Issuance of license Lines of authority.**

~~The commissioner may issue a license to any individual as an adjuster who complies with the applicable provisions of this chapter and who in the opinion of the commissioner is trustworthy and competent~~ (a) An independent adjuster or a company adjuster may qualify for a license in one or more of the following lines of authority:

- (1) Property and casualty;
- (2) Workers' compensation; or
- (3) Crop.

(b) A public adjuster may only qualify for a license designating a property and casualty line of authority.

### **§33-12B-8. License fee; exemptions fees.**

~~(a) The annual fee for an adjuster's individual adjuster license shall be \$25, as provided in section thirteen, article three of this chapter: *Provided*, That when any other state imposes a tax, bond, fine, penalty, license fee or other obligation or prohibition on adjusters resident in this state, the same tax, bond, fine, penalty, license fee or other obligation or prohibition shall be imposed upon adjusters (where licensing of nonresident adjusters is permitted under this article) of each other state licensed or seeking a license in this state. All fees and moneys so collected shall be used for the purposes set forth in section thirteen, article three of this chapter: *Provided, however*, That the provisions of this section shall not apply to emergency insurance adjusters as defined in section eleven-a of this article~~

- (b) The annual fee for a business entity adjuster license shall be \$200.
- (c) The fee for a temporary emergency adjuster license shall be \$25.

(d) All fees collected pursuant to this section shall be used for the purposes set forth in §33-3-13 of this code.

### **§33-12B-9. Licensing of nonresident adjusters.**

(a) A nonresident applicant for an adjuster license who holds a similar license in his or her home state may be licensed as a nonresident adjuster in this state if the applicant's home state has established, by law or regulation, like requirements for the licensing of a resident of this state as a nonresident adjuster.

(b) As a condition of continuing a nonresident adjuster license, the licensee must maintain a license in his or her home state. The commissioner may verify the adjuster's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

(c) If a nonresident adjuster desires to become a resident adjuster, he or she must apply to become one within 90 days of establishing legal residency in this state.

(d) If a nonresident adjuster has his or her license suspended, terminated, or revoked by his or her home state, the adjuster must immediately notify the commissioner of that action and, with respect to license terminations or revocations, surrender the license to the commissioner.

(e) A resident of Canada may be licensed as a nonresident adjuster under this section if that person has obtained a resident or home state adjuster license in another state United States jurisdiction.

### **§33-12B-10. Expiration of license; renewal.**

~~(a) All licenses of adjusters shall~~ The commissioner may, in his or her discretion, fix the dates of expiration of respective licenses for all adjusters in any manner as is considered by him or her to be advisable for an efficient distribution of the workload of his or her office. If the expiration date so fixed would upon first occurrence shorten the period for which a license fee has theretofore been paid, no refund of the unearned fee shall be made. If the expiration date so fixed would upon first occurrence lengthen the period for which license fee had theretofore been paid, the commissioner shall charge no additional fee for the lengthened period. If another date is not so fixed by the commissioner, each license shall, unless continued as herein above provided, expire at midnight on May 31 next following the date of issuance, and the commissioner shall renew annually the license of all such licensees who qualify, and make application therefor, and have paid the fees set forth in this article. However, ~~the commissioner may, in his or her discretion, establish the dates of expiration of licenses in any manner deemed advisable for an efficient distribution of the workload of his or her office~~

(b) An adjuster whose license expires may, if application is made within one year of the expiration date, be reissued a license upon payment of twice the renewal fee.

(c) The commissioner may waive any renewal requirement for any adjuster who is unable to comply due to military service, long-term medical disability, or other extenuating circumstance.

(d) As a condition of the renewal of ~~a crop~~ an adjuster license with the designation of a crop insurance line of authority, the commissioner may require that the licensee demonstrate that he or she has maintained certification of proficiency issued or approved by the ~~USDA~~ United States Department of Agriculture Risk Management Agency.

### **§33-12B-11. Denial, revocation, suspension, probation, or refusal to renew license; penalties; violations.**

(a) The commissioner may examine and investigate the business affairs and conduct of persons applying for or holding an adjuster license to determine whether such person is trustworthy and competent or has been or is engaged in any violation of the insurance laws or rules of this state or in any unfair or deceptive acts or practices in any state.

(b) If the commissioner denies an initial or renewal application for a license, he or she shall notify the applicant or licensee in writing of the reason for such action. The applicant or licensee may, within 10 days of receipt of such notice, make written demand for a hearing before the commissioner to determine the reasonableness of the action, and such hearing shall be held in accordance with the provisions of §33-2-13 of this code.

(c) Whenever, after notice and hearing, the commissioner is satisfied that any adjuster has violated any provision of this chapter or of rules promulgated or proposed hereunder, or is

incompetent or untrustworthy, he or she shall place the adjuster on probation or refuse to issue, revoke, suspend, or, if renewal of license is pending, refuse to renew the license of such adjuster. In addition to placing a licensee on probation or revoking, suspending, or refusing to renew or issue his or her license, the commissioner may in his or her discretion order such licensee to pay to the State of West Virginia an administrative penalty in a sum not to exceed \$1,000 for each violation. Upon the failure of ~~the a~~ licensee to pay ~~such~~ within 30 days a civil penalty imposed by the commissioner, his or her license shall be revoked or suspended by the commissioner.

(d) Each of the following shall constitute a violation under this article:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) Violating any insurance statute, rule, subpoena, or order of the commissioner or of another state's insurance commissioner;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) Having been convicted of or pleaded nolo contendere to any felony;

(7) Having been convicted of or pleaded nolo contendere to a misdemeanor in connection with his or her activities relating to the business of insurance;

(8) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(9) Having an insurance license or its equivalent suspended, revoked, or refused in any other state, province, district, or territory;

(10) Forging any document or signature relating to an insurance transaction or fraudulently procuring a forged signature to any document related to an insurance transaction;

(11) Cheating, including improperly using notes or any other reference material, in the course of taking an examination for an insurance license;

(12) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business in this state or elsewhere;

(13) Failing to comply with an administrative or court order imposing a child support obligation; or

(14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax which remains unpaid.

~~(d)~~ (e) Orders issued pursuant to ~~subsection (b) or (c)~~ of this section are subject to the judicial review provisions of §33-2-14 of this code.

**§33-12B-11a. Emergency adjusters and insurance emergencies; definitions; authorization of temporary emergency adjusters; applications; limitations and authority.**

[Repealed]

**§33-12B-12. Rules and regulations.**

~~The commissioner is authorized to promulgate such rules and regulations as are necessary to effectuate the provisions of this article. Such rules and regulations shall be promulgated and adopted pursuant to the provisions of chapter twenty nine a of this code. may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this article.~~

**§33-12B-13. Continuing education.**

(a) The purpose of this section is to provide continuing education requirements for individual adjusters under guidelines established by the commissioner's office in conjunction with the Board of Insurance Agent Education as provided in §33-12-7 of this code.

(b) This section applies to company adjusters, independent adjusters, and public adjusters licensed pursuant to §33-12B-2 of this code.

(c) This section shall not apply to:

(1) Licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or

(2) Licensees holding nonresident adjuster licenses who have met substantially similar continuing education requirements of their designated home state and whose home state gives credit to residents of this state on the same basis.

(d)(1) The Board of Insurance Agent Education as established by §33-12-7 of this code shall develop a program of continuing education for adjusters and submit the proposal for the approval of the commissioner on or before December 31 of each year. No program may be approved by the commissioner that includes a requirement that any individual adjuster complete more than 24 hours of continuing insurance education biennially.

(2) The biennium mandatory continuing education provisions of this section become effective on the reporting period beginning July 1, 2021.

(3) The commissioner and the Board of Insurance Agent Education, under standards established by the board, may approve any course or program of instruction developed or sponsored by an authorized insurer, accredited college or university, adjusters' association, insurance trade association, or independent program of instruction that presents the criteria and the number of hours that the board and commissioner determine appropriate for the purpose of this section.

(e) An individual who holds an adjuster license and who is not exempt shall satisfactorily complete a minimum of 24 hours of continuing education courses, of which three hours must be in ethics, reported to the commissioner on a biennial basis in conjunction with their license renewal cycle.

(f) Every individual adjuster subject to the continuing education requirements shall furnish, at intervals and on forms as may be proposed by the commissioner, written certification listing the courses, programs, or seminars of instruction successfully completed by the adjuster. The

certification shall be executed by, or on behalf of, the organization sponsoring the courses, programs, or seminars of instruction.

(g) Subject to the approval of the commissioner, the active annual membership by an adjuster in an organization or association recognized and approved by the commissioner as a state, regional, or national professional insurance organization or association may be approved by the commissioner for up to two hours of continuing insurance education: *Provided*, That not more than two hours of continuing education may be awarded to an adjuster for membership in a professional insurance organization during a biennial reporting period.

(h) Adjusters who exceed the minimum continuing education requirement for the biennial reporting period may carry over a maximum of six credit hours only into the next reporting period.

(i) Any individual adjuster failing to meet the requirements mandated in this section and who has not been granted an extension of time with respect to the requirements, or who has submitted to the commissioner a false or fraudulent certificate of compliance, shall have his or her license automatically suspended and no further license may be issued to the person until the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements mandated by this section and all other applicable laws or rules.

(j) The commissioner shall notify the individual adjuster of his or her suspension pursuant to subsection (i) of this section by certified mail, return receipt requested, to the last address on file with the commissioner pursuant to §33-12B-2(b) of this code. Any individual insurance adjuster who has had a suspension order entered against him or her pursuant to this section may, within 30 calendar days of receipt of the order, file with the commissioner a request for a hearing for reconsideration of the matter.

(k) Any individual adjuster who does not satisfactorily demonstrate compliance with this section and all other laws applicable thereto as of the last day of the biennium following his or her suspension shall have his or her license automatically terminated and is subject to the licensing and examination requirements of §33-12B-5 of this code.

(l) The commissioner is authorized to hire personnel and make reasonable expenditures considered necessary for purposes of establishing and maintaining a system of continuing education for adjusters. The commissioner shall charge a fee of \$25 to continuing education providers for each continuing education course submitted for approval which shall be used to maintain the continuing education system. The commissioner may, at his or her discretion, designate an outside administrator to provide all of or part of the administrative duties of the continuing education system subject to direction and approval by the commissioner. The fees charged by the outside administrator shall be paid by the continuing education providers. In addition to fees charged by the outside administrator, the outside administrator shall collect and remit to the commissioner the \$25 course submission fee.

#### **§33-12B-15. Effective date for 2020 amendments.**

The effective date of the amendments made to this article during the 2020 regular legislative session is July 1, 2021.”

And,

By amending the title of the bill to read as follows:

**H. B. 4502** – “A Bill to repeal §33-12B-4a and §33-12B-11a of the Code of West Virginia, 1931, as amended; to amend and reenact §33-12B-1, §33-12B-3, §33-12B-4, §33-12B-5, §33-12B-6, §33-

12B-7, §33-12B-8, §33-12B-9, §33-12B-10, §33-12B-11, and §33-12B-12 of said code; and to amend said code by adding thereto three new sections, designated §33-12B-2, §33-12B-13, and §33-12B-15, all relating to insurance adjusters; defining terms; providing licensure requirements for company, independent, and public adjusters; providing exceptions to adjuster license requirements; permitting temporary licensure; providing for qualifications for a resident adjuster license; authorizing the Insurance Commissioner to conduct criminal history checks for prospective adjusters; requiring fingerprinting; authorizing imposition of fees and civil penalties; specifying jurisdiction and agent for service of process; authorizing change in license expiration date without fee refund or increase; providing for adjuster lines of authority; providing for probation, suspension, revocation, refusal, or termination of adjuster license; requiring adjusters to complete continuing education; requiring Board of Insurance Agent Education to develop program of continuing education for adjusters; authorizing rulemaking; and providing for an effective date.”

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. 627**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bibby, J. Jeffries, Maynard, McGeehan, Paynter and Wilson.

Absent and Not Voting: Householder.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4502) 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 passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4524**, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

Delegate Summers asked unanimous consent that the bill be taken up for immediate consideration, which request was not granted, objection being heard.

Subsequently, on motion of Delegate Summers, the bill was taken up for immediate consideration.

On motion of Delegate Summers, the House refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

## “CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS

### ARTICLE 5. LOCAL OPTION ELECTIONS.

#### §60-5-1. Election in county, magisterial district or municipality.

A county ~~magisterial district~~ or any municipality may in an election held especially for the purpose, determine whether the sale of alcoholic liquors for beverage purposes shall be permitted within that county ~~magisterial district~~ or municipality.

A local option election shall not be held within 60 days of a general or municipal election.

**§60-5-2. Election called on petition of five percent of qualified voters.**

The county commission, or the governing body of the municipality, ~~as the case may be,~~ shall call a special local option election upon the filing of a petition signed by not less than five percent of the qualified voters within the county ~~a magisterial district~~ or municipality.

**§60-5-3. Form of petition.**

The petition shall be in the following form:

Petition for Local Option Election

We, the undersigned legally qualified voters, resident within the county (~~magisterial district~~) (municipality) of \_\_\_\_\_, do hereby petition that a special election be held within the county (city, town) of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 1920 \_\_\_\_\_, upon the following question:

Shall the sale of alcoholic beverages under the West Virginia Alcohol Beverage Control Commissioner be (permitted) (prohibited) in \_\_\_\_\_?

Name Address Date

(Post office or street and number)

**§60-5-4. Notice of election; when held; election officers.**

The county ~~court~~ commission or governing body of the municipality shall give notice of the special local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area in which the election is to be held. Such notice shall be so published within 14 consecutive days next preceding the election. The election shall be held not more than 90 nor less than 60 days from the filing of the petition. The regular election officers of the county or municipal corporation shall open the polls and conduct the election in the same manner provided for general elections.

**§60-5-5. Form of ballot.**

On the ballot shall be printed the following:

Shall the sale of alcoholic ~~beverages~~ liquors for off-premises consumption under the West Virginia ~~liquor~~ Alcohol Beverage Control ~~commission~~ Commissioner be permitted in.....?

Yes.

No.

(Place a cross mark in the square opposite your choice.)



**§60-5-6. How election conducted and results certified.**

The ballots shall be counted, returns made and canvassed as in general elections, and the results certified by the commissioners of election to the county ~~court~~ commission of the county, or the governing body of the municipality. ~~as the case may be.~~ The county ~~court~~ commission or governing body shall without delay certify the result of the election to the ~~commission~~ commissioner.

**§60-5-7. Discontinuance of state stores and agencies in local option territory.**

Within 30 days after a local option election in which a majority has voted No, the ~~commission~~ commissioner shall ~~close~~ order the closing of all ~~state stores~~ selling alcoholic liquor for off-premises consumption within the county, ~~the magisterial district or municipality.~~

**§60-5-8. When another election may be held.**

When a local option election has been held in a county, ~~a magisterial district or municipality,~~ another such election shall may not be held for a period of two years.

**§60-5-9. Allowing state-wide off premises of alcoholic liquors; exceptions; procedures.**

(a) Effective July 1, 2020, the sale of alcoholic liquors for off-premises consumption is authorized in all counties and municipalities of the state.

(b) Notwithstanding the provisions of subsection (a) of this section, a county or municipality which prior to January 1, 2020, prohibited the sale of alcoholic liquors for off-premises consumption may, pursuant to this article, hold an election to maintain the prohibition against the sale of alcoholic liquors for off-premises consumption; :Provided, That a county commission or the governing body of a municipality may, without the petition required by the provisions of §60-5-2 of this code, enter an order to hold a local election option on the issue of whether to maintain the prohibition against the sale of alcoholic liquors for off-premises consumption based upon a majority vote of the county commission or governing body of the municipality if such order is entered on or before July 1, 2020, in which event the election shall be held concurrent with the 2020 general election. The County Commission or municipality may require the state to reimburse it for the actual cost of conducting the election authorized by this subsection.

(c) A county or municipality which prohibits the sale of alcoholic liquors for off-premises consumption pursuant to subsection (b) of this section may later reconsider its action using the procedures set forth in §60-5-1 et seq. of this code.

And,

By amending the title of the bill to read as follows:

**H. B. 4524** – “A Bill to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-5, §60-5-6, §60-5-7, §60-5-8, of the code of West Virginia, as amended and to further amend said code by adding thereto a new section, designated §60-5-9, all relating to the off-premises sale of alcoholic liquors generally; allowing the off-premises sale of alcoholic liquors in every county and municipality in the state; creating procedures for counties and municipalities which prohibited off-premises sale of alcoholic liquors prior to January 1, 2020 to hold a local option election to retain the prohibition; allowing counties and municipalities which prohibit the off premises sale of alcoholic liquors to hold a local option election to reconsider the action; and updating code language.”

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

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. 4581**, Relating to West Virginia Clearance for Access: Registry and Employment Screening.

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

On page two, section one, line twenty-eight, by striking out the words “of a covered provider”;

On page two, section one, line thirty-one, by striking out the words “a covered provider” and inserting in lieu thereof the words “the department, a covered provider,”;

And,

On page four, section two, line fifteen, by striking out the words “the covered provider” and inserting in lieu thereof the words “the department, the covered provider,”.

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. 628**), 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: Skaff.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4581) 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 passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4589**, Conducting study for an appropriate memorial for West Virginians killed in the War on Terror.

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

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 1. DIVISION OF CULTURE AND HISTORY.**

**§29-1-3. Commission on the Arts.**

(a) The Commission on the Arts is continued and shall be composed of 15 appointed voting members and the ex officio nonvoting members set forth or authorized for appointment in this section.

(b)(1) The Governor shall appoint, by and with the advice and consent of the Senate, the voting members of the commission for staggered terms of three years. A person appointed to fill a vacancy shall be appointed only for the remainder of that term.

(2) No more than eight voting members may be of the same political party. Effective July 1, 2004, no more than three voting members may be from the same regional educational service agency district created in §18-2-26 of this code. Voting members of the commission shall be appointed so as to fairly represent both sexes, the ethnic and cultural diversity of the state, and the geographic regions of the state.

(3) The commission shall elect one of its members as chair. It shall meet at the times specified by the chair. Notice of each meeting shall be given to each member by the chair in compliance with the open meetings laws of the state. A majority of the voting members constitute a quorum for the transaction of business. The director of the arts section shall be an ex officio nonvoting member of the commission and shall serve as secretary. The director or a majority of the members also may call a meeting upon notice as provided in this section.

(4) Each voting member or ex officio nonvoting member of the commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of the duties of the office; except that in the event the expenses are paid, or are to be paid, by a third party, the member or ex officio member, as the case may be, shall not be reimbursed by the state.

(5) Upon recommendation of the commissioner, the Governor also may appoint those officers of the state that are appropriate to serve on the commission as ex officio nonvoting members.

(c) The commission may:

(1) Advise the commissioner and the director of the arts section concerning the accomplishment of the purposes of that section and establish a state plan with respect to the arts section;

(2) Approve and distribute grants-in-aid and awards from federal and state funds relating to the purposes of the arts section;

(3) Request, accept, or expend federal funds to accomplish the purposes of the arts section when federal law or regulations would prohibit those actions by the commissioner or section director, but would permit them to be done by the commission on the arts;

(4) Otherwise encourage and promote the purposes of the arts section;

(5) Approve rules concerning the professional policies and functions of the section as promulgated by the director of the arts section; and

(6) Advise and consent to the appointment of the director by the commissioner.

(d) A special revenue account in the State Treasury, known as the 'Cultural Facilities and Capital Resources Matching Grant Program Fund', is continued. The fund shall consist of moneys received under §29-22A-10 of this code and funds from any other source. The moneys in the fund shall be expended in accordance with the following:

(1) Fifty percent of the moneys deposited in the fund shall be expended by the Commission on the Arts for capital improvements, preservation, and operations of cultural facilities: *Provided*, That the Commission on the Arts may use no more than 25 percent of the funding for operations of cultural facilities pursuant to the rule required by this subdivision: ~~*Provided, however*, That the commission shall make a women's veterans memorial statue a priority when expending the funds: *Provided further*, That the commission shall submit the plans for the statue to the secretary of administration for his or her approval.~~ The Commission on the Arts shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to create a matching grant program for cultural facilities and capital resources; and

(2) Fifty percent of the moneys deposited in the fund shall be expended by the Division of Culture and History for:

(A) Capital improvements, preservation, and operation of cultural facilities that are managed by the division; and

(B) Capital improvements, preservation, and operation of cultural facilities that are not managed by the division.

(e) The commission shall undertake a study, solicit designs, and make recommendations for the establishment of an appropriate memorial on state capitol grounds for soldiers killed in the conflicts in Iraq, Afghanistan, and other locations who died fighting the United States War on Terror, and to recognize and honor the West Virginians who lost their lives in these conflicts. The commission shall consult with the Capitol Building Commission and state veterans, including veterans groups and Gold Star mothers of those lost in these conflicts, prior to adoption of a proposal for the memorial. The commission shall provide a report to the Legislature's Joint Committee on Government and Finance by January 1, 2022, including recommendations for design and location of the memorial and estimated construction costs."

And,

By amending the title of the bill to read as follows:

**H. B. 4589** – "A Bill to amend and reenact §29-1-3 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement that the Commission on the Arts prioritize a women's veterans memorial statue, and causing a requiring a study and recommendations by the Commission on the Arts on the construction and design of a memorial to honor West Virginians killed in the United States War on Terror."

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. 629**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4589) 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 passed, without amendment, a bill of the House of Delegates, as follows:

**H. B. 4618**, Relating to deadly weapons for sale or hire.

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

**H. B. 4887**, Relating to revocation, cancellation, or suspension of business registration certificates.

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

Senators Clements, Azinger and Jeffries.

On motion of Delegate Summers, 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 C. Martin, Barnhart and Angelucci.

*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 the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 59** - "Requesting the Division of Natural Resource to name the planned special event shelter that is to be put out for bid for construction in the Watters Smith Memorial State Park as the 'Rachel Hershey Smith Memorial Shelter'."

Whereas, Watters Smith was born in Trenton, New Jersey, on July 15, 1767; and

Whereas, Watters Smith married Elizabeth Davisson, and settled in Harrison County on his father's 1,000-acre tract of land, in what was then the state of Virginia; and

Whereas, Watters Smith purchased 112 acres adjacent to his father's land in 1792; and

Whereas, Watters Smith and Elizabeth Davisson Smith cleared the rugged, remote land, planted crops, and built a cabin for their family, which eventually grew to eight children; and

Whereas, Watters Smith constructed a blacksmith, shop fashioning tools to build his cabin; and

Whereas, Upon the death of Watters Smith, the property was bequeathed to Watters Smith, Jr., who then bequeathed the property to his son, John Smith; and

Whereas, Ownership of the property eventually fell to Alexander Smith, who was born in 1847, and who built the home now known as the Smith family residence, to replace the original cabin built by Watters Smith; and

Whereas, Four generations of the Smith family operated the farm as a business; and

Whereas, Burr Smith, the great-great-grandson of Watters Smith, left his portion of the Watters Smith property to the State of West Virginia in 1949 to be developed into a park to honor his ancestors; and

Whereas, Rachel Smith Hershey, a life-long resident of Harrison County and descendant of Watters Smith, also generously donated her portion of the Watters Smith property to the State of West Virginia in 1975; and

Whereas, The park has become a permanent location for many of the tools and equipment used by generations of Smiths on the farm, and they are on display at the Smith homestead, in the museum, and outbuildings; and

Whereas, Rachel Smith Hershey added antiques, furnishings, and a sizable collection of West Virginia glassware in further generous donations to the park; and

Whereas, Watters Smith Memorial State Park now comprises of 532 acres and includes the museum, the Smith family residence, and many other historical buildings; and

Whereas, The Watters Smith Memorial State Park includes amenities such as picnic areas and shelters, playgrounds, hiking trails, a superintendent's house, and a log cabin relocated from Beech Fork State Park; and

Whereas, The State of West Virginia will continue adding and improving amenities to Watters Smith Memorial State Park including planned construction of a deluxe special event shelter with a kitchen, restroom, and amphitheater to serve not only the citizens of that area but also tourists from around the nation; and

Whereas, It is indisputable that without the generous donations by generations of Watters Smith's family, the citizens of the State of West Virginia would not have the pleasure and benefit of the park, including the authentic Smith homestead and displays of early life in West Virginia from the late 1700s to the early 1900s; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Natural Resources is hereby requested to name the planned special event shelter that is to be put out for bid for construction in the Watters Smith Memorial State Park as the "Rachel Hershey Smith Memorial Shelter"; and, be it

*Further Resolved,* That the Division of Natural Resources is hereby requested, on completion of the shelter, to have made and be placed signs identifying the shelter as the "Rachel Smith Hershey Memorial Shelter"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Director of the Division of Natural Resources.

In the absence of objection, **Com. Sub. for H. B. 2892** was taken up for further consideration.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 630**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, McGeehan, Paynter and Toney.

Absent and Not Voting: N. Brown, Capito, Pushkin and Sponaugle.

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. 2892) takes effect from its passage.

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

### **Resolutions Introduced**

Delegate Hill offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 142** — “Requesting a study to modernize the state’s organ donation system to ensure that it supports West Virginia’s support of organ and tissue donation.”

Whereas, Approximately 113,000 Americans are currently on waitlists for lifesaving organ transplants – 20 of whom die each day; and

Whereas, The leading causes of traumatic brain injury are motor vehicle crashes, falls, being struck by or against objects, and assault; and

Whereas, Someone is added to the organ donation waiting list every 10 minutes, and over 500 of those awaiting a life-saving organ transplant are West Virginians; and

Whereas, One person can donate up to eight lifesaving organs; and

Whereas, West Virginia proved strong support of organ donation by being one of the first states in the nation to provide an organ donation registration option in the hunting and fishing licensing process; and

Whereas, Transplantation is one of the most remarkable success stories in the history of medicine. It gives a second chance at life to thousands of people facing organ failure and provides many others with active and renewed lives. But despite continuing advances in medicine and technology, the need for organs and tissues is vastly greater than the number available for transplantation; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to conduct a study to modernize the state’s organ donation system to ensure that it supports West Virginia’s support of organ and tissue donation; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2021, on its findings, conclusions and

recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 143** — “Requesting the Joint Committee on Government and Finance study and analyze the continued impact of human trafficking in West Virginia and improved methods to minimize, deter, and prevent human trafficking and facilitate effective treatment for victims of human trafficking.”

Whereas, Human trafficking is an under-reported crime in West Virginia that affects hundreds of children and families throughout the state; and

Whereas, Victims of human trafficking may be exploited by a broad spectrum of sources and methods which may otherwise appear legitimate; and

Whereas, Minimizing, deterring, and preventing the sources and methods of human and sex trafficking is important to reducing the physical and emotional damage inflicted by perpetrators upon victims which in turn impacts the state economy and cost of government services; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study and analyze the continued impact of human trafficking in West Virginia and improved methods to minimize, deter, and prevent human trafficking and facilitate effective treatment for victims of human trafficking; and, be it

*Further Resolved*, That the study include an examination of the highest risk sources and methods of human trafficking of the children and youth of West Virginia; and, be it

*Further Resolved*, That the study consider that with the rise in grand-families, many elder guardians are not well versed in the hazards of technology and social media, and thus may not be aware of the victimization and grooming of children and adolescents that takes place by perpetrators of human trafficking and sexual abuse; and, be it

*Further Resolved*, That the study seek best practices related to train and educate service providers and community resources, especially those who are mandated reporters, to recognize the risk factors of human trafficking and appropriately report and potentially intervene on behalf of young victims; and, be it

*Further Resolved*, That the study determine best practices in prevention through age-appropriate education of children and teens related to avoiding high risk behavior and locations; and, be it

*Further Resolved*, That not later than 60 days prior to the beginning of the 2021 regular session of the Legislature, the Joint Committee on Government and Finance report on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it



*Further Resolved*, That the expenses necessary to conduct a study, prepare reports, and draft necessary legislation be paid from legislative appropriates to the Joint Committee on Government and Finance.

And,

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 144** — “Requesting the Joint Committee on Government and Finance study ongoing issues relating to providing resources and processes to support and assist ‘Grandfamilies’ caring for minor children in West Virginia.”

Whereas, Approximately 35,000 West Virginian children under the age of 18 live with grandparents; and

Whereas, Approximately 21,000 grandparents are householders responsible for their grandchildren who live with them; and

Whereas, Approximately 46.5 percent of these grandparents are in the workforce; and

Whereas, Approximately 20.9 percent of these grandparents are in poverty; and

Whereas, Federal and state public benefits programs can help with income, food, healthcare, home energy, and other needs for eligible grandfamilies; and

Whereas, Application for federal financial aid for college education continues to be a challenge for minors living with grandfamilies; and

Whereas, There should be multiple processes for grandparents in grandfamily arrangements to easily obtain financial and emotional support, respective forms for assistance programs, and leadership tools for grandfamilies; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Committee on Government and Finance is hereby requested to study ongoing issues relating to providing resources and processes to support and assist “Grandfamilies” caring for minor children in West Virginia; and, be it

*Further Resolved*, That the Committee on Government and Finance is hereby requested to research the feasibility of revisions to state law that could help facilitate minors living with grandfamilies in their applications for federal financial aid for college education; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the 2021 regular session of the Legislature on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct a study, prepare reports, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

**Special Calendar****Unfinished Business**

**S. C. R. 4**, Urging Congress call convention to propose amendment on congressional term limits; on unfinished business, was reported by the Clerk.

At the request of Delegate Summers, and by unanimous consent, the resolution was postponed one day.

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

**H. C. R. 7**, U. S. Navy MM2 Carl E. Keeney, U. S. Navy SN1 Frank Keeney and U. S. Army PFC Carl M. Nicholas Memorial Bridge,

**Com. Sub. for H. C. R. 26**, Requesting the Division of Highways name a portion of Cannelton Road "In Memory of Fallen Corrections Officers",

**Com. Sub. for H. C. R. 31**, U. S. Army Air Corp PFC James W. Brown Memorial Bridge,

**Com. Sub. for H. C. R. 56**, U. S. Marine Corps Lance Corporal Eddie Dean Starcher Memorial Bridge,

**Com. Sub. for H. C. R. 69**, U. S. Air Force Senior Airman Luke Christopher Wamsley Memorial Bridge,

**Com. Sub. for H. C. R. 74**, U. S. Army PFC Roger Lee Carpenter Memorial Bridge,

**H. C. R. 89**, U. S. Army SGT James Shellace Armentrout Memorial Bridge,

**Com. Sub. for H. C. R. 98**, Delegate Emily Warden Yeager Memorial Bridge,

**Com. Sub. for H. C. R. 101**, Claude Markle Hill,

**Com. Sub. for H. C. R. 108**, U. S. Navy PO3 Heath "Scrappy" Shilling Memorial Road,

**Com. Sub. for H. C. R. 109**, U. S. Airman Thomas Harry Honaker, Jr. Memorial Bridge,

**H. C. R. 110**, Speaker Clyde M. See, Jr. Exit,

**Com. Sub. for H. C. R. 111**, U. S. Air Force Major Mary Lafferty Coll, D.O. Memorial Bridge,

And,

**H. C. R. 139**, U. S. Army TSGT Denver E. Short Memorial Road.

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

**H. C. R. 141**, Urging the President and Congress of the United States of America take no action to employ military forces of the United States in active duty combat unless the United States Congress has passed an official declaration of war; on unfinished business, was reported by the Clerk.

At the request of Delegate Summers, and by unanimous consent, the resolution was postponed one day.

### Third Reading

**S. B. 51**, Specifying forms of grandparent visitation; 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. 631**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 51) passed.

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

**Com. Sub. for S. B. 120**, Establishing priorities for expenditures for plugging abandoned gas or oil wells; 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. 632**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the

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

**Com. Sub. for S. B. 120** - "A Bill to amend and reenact §22-10-6 of the Code of West Virginia, 1931, as amended, relating to the establishment of priorities for expenditures for plugging abandoned oil and gas wells; requiring that a bond posted for a well shall first be used to plug the well and mitigate environmental issues related to oil and gas development on the land where the well is located, if the bond is forfeited as a result of failure to plug the abandoned well, repair the well that is causing immediate threat to the environment, or which hinders or impedes the development of mineral resources of this state, or the well operator was cited for and then failed to correct an immediate threat to the environment or hinderance or impediment to the development of mineral resources of this state, or the operator failed to reclaim the surface disturbance causing immediate threat to the environment or which hinders or impedes the development of mineral resources of this state."

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

**Com. Sub. for S. B. 130**, Relating to procedure for driver's license suspension and revocation for DUI; 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. 633**), and there were—yeas 59, nays 41, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Barnhart, Boggs, N. Brown, Butler, Byrd, Canestraro, Caputo, Evans, Fast, Fleischauer, Hansen, Hartman, Hicks, Hornbuckle, Hott, Howell, D. Jeffries, D. Kelly, Kessinger, Longstreth, Lovejoy, C. Martin, P. Martin, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Skaff, Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 130) passed.

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

**Com. Sub. for S. B 130** – “A Bill to amend and reenact §17C-5-2, §17C-5-2a, §17C-5-2b, §17C-5-4, §17C-5-7, and §17C-5-12 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17C-5-7a; to amend and reenact §17C-5A-1, §17C-5A-1a, and §17C-5A-3 of said code; to amend said code by adding thereto a new section, designated §17C-5A-2b; and to amend said code by adding thereto a new section, designated §17C-5C-1a, all relating generally to offenses involving operating a motor vehicle while under the influence of alcohol, controlled substances, or drugs and the administrative process for revocation or suspension of a person’s license to operate a motor vehicle based on such offenses; defining terms; transferring authority for hearing certain matters related to revocations or suspensions of licenses from the Office of Administrative Hearings to the courts; establishing mandatory license revocation or suspension periods for individuals convicted of certain offenses; authorizing alternate revocation or suspension periods conditioned upon participation in Motor Vehicle Alcohol Test and Lock Program for certain offenses; establishing mandatory license revocation or suspension periods for individuals upon second and subsequent convictions for certain offenses; clarifying what constitutes a second or subsequent offense for purposes of criminal penalties and license revocations and suspensions; clarifying that certain offenses involving driving under the influence take place only when the operator is upon a public highway or private road; clarifying the term ‘in this state’ for purposes of enforcement of certain serious traffic crimes; requiring the Commissioner of the Division of Motor Vehicles to revoke a person’s license upon conviction of certain offenses or for refusal to submit to a secondary chemical test in certain circumstances; requiring individuals whose licenses have been revoked or suspended upon conviction of certain offenses to complete the comprehensive safety and treatment program before the license can be reinstated; requiring driver consent to participation in Motor Vehicle Alcohol Test and Lock Program; requiring deferral program for certain first offenses to be completed within one year; prohibiting a secondary test of blood without consent absent issuance of a search warrant; requiring that a person arrested for driving under the influence be provided with certain verbal and written warnings prior to submitting to a secondary chemical test; requiring an officer to 15 minutes before a refusal to submit to a secondary chemical test is considered final; requiring that, following an individual’s refusal to submit to a secondary chemical test, an arresting officer submit a sworn statement containing certain information to Commissioner of the Division of Motor Vehicles and the court; providing for a hearing before the court to contest a documented refusal to submit to a secondary chemical test; providing minimum license revocation periods for refusal to submit to a secondary chemical test; directing the Bureau for Public Health to make reports and recommendations on the levels of drugs and controlled substances to be used as evidence in certain criminal proceedings; limiting the administrative jurisdiction of Division of Motor Vehicles and Office of Administrative Hearings to offenses occurring on or before June 30, 2020; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual’s license on the basis of driving under the influence or refusal to submit to a secondary test absent direction from court; requiring the Commissioner of the Division of Motor Vehicles to provide certain records to the court following a person’s arrest; providing a procedure to correct a license revocation or suspension based on mistaken driver identity; providing that a plea of no contest constitutes a conviction; requiring the clerk of the court to transmit a copy of an order related to revoking or suspending a person’s license to the Division of Motor Vehicles; directing that a copy of a license revocation or suspension order to be sent to the person whose license is being revoked or suspended by certified mail; providing that revocation for refusal to submit to secondary chemical test run concurrently with other revocation or suspension imposed as a result of an offense that led to the arrest; making persons convicted of driving under the influence eligible for participation in comprehensive safety and treatment program

and related reductions in length of revocation for successful completion thereof; requiring the Office of Administrative Hearings to dispose of all matters pending before it by a certain date; establishing a timeline for jurisdiction of matters currently filed in the Office of Administrative Hearings to transfer to the courts; requiring that matters related to license suspension or revocation for driving under the influence, pending before the Office of Administrative Hearings on its termination, be dismissed; requiring that matters not related to license suspension or revocation for driving under the influence, pending before the Office of Administrative Hearings on its termination, be transferred to a circuit court according to certain procedures; terminating the Office of Administrative Hearings by a certain date; eliminating obsolete language; providing internal effective dates; and making technical corrections.”

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

**S. B. 180**, Relating to Second Chance Driver’s License Program; 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. 634**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Dean, Fluharty and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 180) passed.

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

**S. B. 180** – “A Bill to amend and reenact §17B-7-5 and §17B-7-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new code section, designated §17B-7-11, all relating to the Second Chance Driver’s License Program; providing that a court’s accounting of amounts due for crime victim restitution be separately identified; providing that any moneys for restitution that are not submitted in the accounting by the court may not be waived by the participant’s completion of the program; and providing that amounts of court costs collected under the Second Chance Driver’s License Program attributable to crime victim restitution are not subject to the five percent offset for use by the Director of the Division of Justice and Community Services in the administration of the program; and providing a sunset provision.”

*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. 193**, Setting forth timeframes for continuing purchases of commodities and services over \$1 million; 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. 635**), 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: Boggs, Dean and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 193) 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. 195**, Updating powers of personal representatives of deceased person's estate; 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. 636**), 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: Dean, Graves and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 195) passed.

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

**Com. Sub. for S. B. 213**, Relating to administration of trusts; 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. 637**), 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: Dean, Graves and Pyles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 213) passed.

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

**Com. Sub. for S. B. 213** – “A Bill to amend and reenact §44D-1-103, §44D-1-105, and §44D-1-108 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-6-603 of said code; to amend and reenact §44D-7-703 of said code; to amend and reenact §44D-8-808 of said code; and to amend said code by adding thereto a new article, designated §44D-8A-801, §44D-8A-802, §44D-8A-803, §44D-8A-804, §44D-8A-805, §44D-8A-806, §44D-8A-807, §44D-8A-808, §44D-8A-809, §44D-8A-810, §44D-8A-811, §44D-8A-812, §44D-8A-813, §44D-8A-814, §44D-8A-815, §44D-8A-816, and §44D-8A-817, all relating to the administration of trusts; providing definitions; establishing default and mandatory rules; establishing when terms of a trust designating the principal place of administration are valid; establishing grantor's powers and powers of withdrawal; enacting the West Virginia Uniform Directed Trust Act; specifying applicability; setting forth exclusions; establishing powers, duties and liabilities of a trust director; providing limitations on trust director power; establishing duties and liabilities of a directed trustee; establishing duty of trustee to provide certain information to a trust director or trustee; providing that a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercised of power; providing limitations on actions against a trust director; establishing defenses in actions against a trust director; establishing person jurisdiction of West Virginia courts over a trust director; providing that certain statutory rules apply to a trust director; and providing effective date.”

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 638**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Porterfield.

Absent and Not Voting: Dean, Graves and Pyles.

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. 213) takes effect July 1, 2020.

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

**Com. Sub. for S. B. 275**, Creating Intermediate Court of Appeals; 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. 639**), and there were—yeas 44, nays 56, absent and not voting none, with the yeas being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Capito, Cooper, Cowles, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Householder, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Linville, Mandt, Maynard, Nelson, Pack, Porterfield, Queen, Rowan, Shott, Steele, Storch, Summers, Sypolt, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

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. 275) rejected.

Pursuant to House Rule 58, Delegate Miley, having voted on the prevailing side when the House of Delegates rejected Com. Sub. for S. B. 275, moved that the vote be reconsidered.

Delegate Foster moved to table the motion to reconsider the vote.

On this motion, the yeas and nays were taken (**Roll No. 640**), and there were—yeas 43, nays 57, absent and not voting none, with the yeas being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Capito, Cooper, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Linville, Mandt, Maynard, Nelson, Pack, Phillips, Porterfield, Queen, Rowan, Shott, Steele, Storch, Summers, Sypolt, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

So, a majority of the members present and voting not having voted in the affirmative, the motion to table the motion to reconsider the vote on Com. Sub. for S. B. 275 did not prevail.

On the motion to reconsider the vote on Com. Sub. for S. B. 275, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 641**), and there were—yeas 42, nays 58, absent and not voting none, with the yeas being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Capito, Cooper, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, Howell, D. Jeffries, J. Jeffries, Jennings,

D. Kelly, J. Kelly, Kessinger, Kump, Linville, Mandt, Maynard, Nelson, Pack, Porterfield, Queen, Rowan, Shott, Steele, Summers, Sypolt, Waxman, Westfall, Wilson, Worrell and Hanshaw (Mr. Speaker).

So, a majority of the members present and voting not having voted in the affirmative, the motion to reconsider the vote on the passage of the bill did not prevail.

At 1:05 p.m., the House of Delegates recessed until 2:00 p.m.

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### Afternoon Session

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The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

### Special Calendar

#### Third Reading

-continued-

**Com. Sub. for S. B. 291**, Requiring PEIA and health insurance providers provide mental health parity; 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. 642**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bartlett, Bibby, Butler, Cadle, Fast, Foster, Graves, Hardy, Kump, P. Martin, McGeehan, Porterfield, Wilson and Hanshaw (Mr. Speaker).

Absent and Not Voting: Angelucci and J. Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 291) 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:

**Com. Sub. for S. B. 291** - "A Bill to repeal §33-15-4a of the Code of West Virginia, 1931, as amended; to repeal §33-16-3a of said code; to amend and reenact §5-16-7 of said code; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend and reenact §33-24-4 of said code; to amend said code by adding thereto a new section, designated §33-24-7u; to amend and reenact §33-25-6 of said code; to amend said code by adding thereto a new section, designated §33-25-8r; and to amend said code by adding thereto a new section, designated §33-25A-8u, all relating to requiring the Public Employees Insurance Agency and other health insurance providers to provide mental health parity between behavioral health, mental health, substance use disorders, and medical and surgical procedures; providing definitions; providing for mandatory reporting; providing for rulemaking; and setting forth 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.

**S. B. 322**, Relating to prequalifications for state contract vendors; 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. 643**), 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: J. Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 322) passed.

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

**Com. Sub. for S. B. 472**, Providing alternative sentencing program for work release; 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. 644**), 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: J. Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 472) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 645**), 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: J. Kelly.

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. 472) takes effect from its passage.

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

**Com. Sub. for S. B. 517**, Creating State Parks and Recreation Endowment Fund; 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. 646**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Nelson and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 517) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 647**), and there were—yeas 100, nays none, absent and not voting none.

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. 517) takes effect from its passage.

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

**Com. Sub. for S. B. 522**, Relating to compensation awards to crime victims ; 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. 648**), and there were—yeas 100, nays none, absent and not voting none.

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.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 649**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Howell.

Absent and Not Voting: Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the bill (Com. Sub. for S. B. 522) takes effect July 1, 2020.

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

**Com. Sub. for S. B. 547**, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation; 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. 650**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: Fleischauer, Fluharty, Jennings, Paynter and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 547) passed.

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

**Com. Sub. for S. B. 547** - "A Bill to amend and reenact §21-3E-16 of the Code of West Virginia, 1931, as amended; and to amend and reenact §21A-6-3 of said Code; all relating to unemployment compensation; revising provisions relating to employer testing, notice, termination, and forfeiture of unemployment compensation benefits; and providing that violation of an employer's drug free

workplace program, or, violation of an employer's alcohol free workplace program, can still be grounds for a finding of gross misconduct.”

*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. 551**, Relating to Water and Wastewater Investment and Infrastructure Improvement 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. 651**), and there were—yeas 89, nays 11, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler, Cadle, Dean, Fast, C. Martin, P. Martin, McGeehan, Paynter, Toney and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 551) 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:

**Com. Sub. for S. B. 551** – “A Bill to amend and reenact §8-12-17 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §24-2-4g, all relating generally to the Water and Wastewater Investment and Infrastructure Improvement Act to encourage investment in water and wastewater utilities; describing and expanding permissible uses for proceeds of a sale or lease of a municipal utility; making legislative findings; providing for use of negotiated sales price in certain filings; providing for rate based addition using negotiated sales price under certain circumstances; providing for additional approvals under certain circumstances; specifying preliminary agreements and commitments not requiring prior approval; authorizing the Public Service Commission to combine water and wastewater revenue requirements or allocate a portion of wastewater revenue requirement to water customers under certain circumstances; and setting forth defined terms.”

*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. 579**, Changing and adding fees to wireless enhanced 911 fee; 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. 652**), and there were—yeas 73, nays 27, absent and not voting none, with the nays being as follows:

Nays: Bartlett, Bates, Bibby, N. Brown, Butler, Canestraro, Dean, Diserio, Ellington, Evans, Fluharty, Hanna, Hardy, Hicks, Higginbotham, Howell, J. Jeffries, C. Martin, P. Martin, Maynard, McGeehan, Miley, Miller, Paynter, Steele, Tomblin and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 579) passed.

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

**Com. Sub. for S. B. 597**, Relating to judicial branch members' salaries and pensions; 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. 653**), and there were—yeas 91, nays 9, absent and not voting none, with the nays being as follows:

Nays: Bates, Butler, Cadle, Hamrick, Hill, Howell, J. Jeffries, McGeehan and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 597) 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:

**Com. Sub. for S. B. 597** – “A Bill to amend and reenact §50-1-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §51-1-10a of said code; to amend and reenact §51-2-13 of said code; and to amend and reenact §51-2A-6 of said code, all relating to providing a ten percent salary increase to certain judicial officers.”

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 654**), and there were—yeas 93, nays 7, absent and not voting none, with the nays being as follows:

Nays: Butler, Cadle, J. Jeffries, C. Martin, P. Martin, McGeehan and Wilson.

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. 597) takes effect July 1, 2020.

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

**S. B. 610**, Removing resident manager requirement for Alcohol Beverage Control Administration; on third reading, coming up in regular order, was read a third time.

Delegate C. Martin requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 655**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Bartlett, Butler, Fast, D. Jeffries, Jennings, Mandt, C. Martin, P. Martin, Porterfield and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 610) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 656**), and there were—yeas 93, nays 7, absent and not voting none, with the nays being as follows:

Nays: Bartlett, Butler, Fast, D. Jeffries, Jennings, Mandt and Porterfield.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 610) takes effect July 1, 2020.

*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. 615**, Declaring certain claims against state as moral obligations of state; 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. 657**), 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: Graves.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 615) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 658**), 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: Graves and Nelson.

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. 615) takes effect from its passage.

*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. 660**, Regulating electric bicycles; 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. 659**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Fast, J. Jeffries and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 660) passed.

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

**S. B. 664**, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity; 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. 660**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Kump, McGeehan and Paynter.

Absent and Not Voting: Hartman, Householder and Mandt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 664) passed.

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

**Com. Sub. for S. B. 670**, Amending service of process on nonresident persons or corporate entities; 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. 661**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cadle.

Absent and Not Voting: Higginbotham.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 670) passed.

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

**Com. Sub. for S. B. 690**, Permitting street-legal special purpose vehicles on highways; 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. 662**), 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: Higginbotham.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 690) passed.

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

**Com. Sub. for S. B. 690** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-13-1, relating to the operation of street-legal special purpose vehicles; permitting the operation of street-legal special purpose vehicles on highways; providing for registration of street-legal special purpose vehicles; establishing licensing and equipment requirements for street-legal special purpose vehicles; defining terms; requiring rulemaking; clarifying that low speed vehicles are not special purpose vehicles or street-legal special purpose vehicles; and allowing low speed vehicles to cross state routes at traffic lights when the state route does not have a posted speed limit greater than 40 miles per hour."

*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. 711**, Relating to juvenile jurisdiction of circuit courts; 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. 663**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 711) passed.

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

**Com. Sub. for S. B. 716**, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization; on third reading, coming up in regular order, was read a third time.

Delegate Ellington requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 664**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Jennings and Porterfield.

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 716) 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:

**Com. Sub. for S. B. 716** - "A Bill to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating to requiring Department of Health and Human Resources to make payment for tubal ligation without requiring at least 30 days between the date of informed consent and date of the tubal ligation procedure; and removing obsolete language."

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 665**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Jennings and Porterfield.

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. 716) takes effect July 1, 2020.

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

**Com. Sub. for S. B. 717**, Relating generally to adult protective services; 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. 666**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 717) passed.

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

**Com. Sub. for S. B. 719**, Imposing health care-related provider tax on certain health care organizations; 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. 667**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Butler, J. Jeffries, Kessinger, McGeehan, Paynter, Waxman and Wilson.

Absent and Not Voting: Cowles, Foster, Little and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 719) passed.

Delegate Summers moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 668**), and there were—yeas 91, nays 4, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, McGeehan, Paynter and Waxman.

Absent and Not Voting: Foster, J. Kelly, Little, Wilson and Worrell.

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. 719) takes effect July 1, 2020.

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

**Com. Sub. for S. B. 738**, Creating Flatwater Trail Commission; 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. 669**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Foster, J. Kelly, Wilson and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 738) passed.



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

**S. B. 740**, Clarifying authorized users of Ron Yost Personal Assistance Services Fund; 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. 670**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Hardy and Kessinger.

Absent and Not Voting: Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 740) passed.

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

**S. B. 747**, Requiring Bureau for Public Health develop Diabetes Action Plan; 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. 671**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Kump.

Absent and Not Voting: Angelucci, Dean and J. Jeffries.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 747) 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. 787**, Providing benefits to pharmacists for rendered care; 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. 672**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Dean and J. Jeffries.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 787) passed.

**Com. Sub. for S. B. 797**, Authorizing governing boards of public and private hospitals employ hospital police officers; on third reading, coming up in regular order, was read a third time.

Delegate Kump moved the previous question, which demand was sustained.

On this question, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 673**), and there were—yeas 45, nays 54, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Atkinson, Azinger, Barnhart, Bartlett, Bibby, Butler, Cadle, Capito, Cooper, Criss, Ellington, Fast, Foster, Graves, Hamrick, Hanna, Higginbotham, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Little, Mandt, C. Martin, P. Martin, Maynard, Nelson, Paynter, Queen, Rohrbach, Rowan, Shott, Steele, Sypolt, Toney, Waxman, Westfall, Wilson and Hanshaw (Mr. Speaker).

Absent and Not Voting: Porterfield.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 674**), and there were—yeas 76, nays 23, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Canestraro, Caputo, Cowles, Diserio, Fleischauer, Fluharty, Hornbuckle, Kump, Lavender-Bowe, Linville, C. Martin, McGeehan, Miley, Pack, Paynter, Phillips, Sponaugle, Swartzmiller and Wilson.

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 797) 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:

**Com. Sub. for S. B. 797** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-19; to amend and reenact §17C-1-6 of said code; and to amend and reenact §30-29-1, §30-29-5, and §30-29-8 of said code, all relating generally to law-enforcement officers; the authorization by governing boards of public and private hospitals to appoint and employ hospital police officers; providing for the qualifications, training, authority, compensation, and removal of hospital police officers; providing for training and examinations of law enforcement officers; providing for the assistance of local law-enforcement agencies upon request; and providing limitations on liability of hospital police officers.”

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

**S. B. 843**, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund; 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. 675**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 843) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 676**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 843) takes effect from its passage.

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

**S. B. 844**, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund; 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. 677**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 844) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 678**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 844) takes effect from its passage.

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

**Com. Sub. for S. B. 845**, Supplemental appropriation from Treasury to DHHR, Division of Human Services.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 679**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs, Mandt and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 845) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were (**Roll No. 680**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs, Mandt and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 845) takes effect from its passage.

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

**S. B. 852**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 681**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Boggs and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 852) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were (**Roll No. 682**), 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: Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 852) takes effect from its passage.

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

**S. B. 853**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 683**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan and Porterfield.

Absent and Not Voting: Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 853) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were (**Roll No. 684**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan and Porterfield.

Absent and Not Voting: Linville and Mandt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 853) takes effect from its passage.

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

In the absence of objection, the House returned to consideration of Com. Sub. for S. B. 787.

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:

**Com. Sub. for S. B. 787** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-53-1, relating to providing benefits to pharmacists for pharmacist care rendered within the pharmacist's scope of practice if benefits would be provided for such services performed by other health care providers; providing for reimbursement pursuant to negotiations; excepting certain health plans, policies, contracts or agreements from requirements; and providing for effective date."

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

### **Second Reading**

**Com. Sub. for S. B. 253**, Providing for fair pay and maximized employment of disabled persons; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 752**, Relating generally to medical cannabis; on second reading, coming up in regular order, was read a second time; on second reading, coming up in regular order, was read a second time.

Delegate Summers asked unanimous consent that the bill be advanced to third reading with the right to amend, which consent was not granted, objection being heard.

Delegate Summers then so moved.

Subsequently, in the absence of objection, the bill was advanced to third reading with amendments pending and the general right to amend, and the rule was suspended to permit the consideration of amendments on that reading.

**S. B. 854**, Expiring funds to Division of Culture and History from Auditor's Office, Purchasing Card Administration Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading

**S. B. 855**, Expiring funds to State Rail Authority, WV Commuter Rail Access Fund from Auditor's Office, Purchasing Card Administration Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 856**, Expiring funds from WV Development Office, Synthetic Fuel, Producing County Fund to Market and Communications Operating Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### Committee Reports

Mr. Speaker (Mr. Hanshaw), 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. 12**, Feasibility study of extracting rare earth elements from coal ash,

**H. C. R. 85**, Requesting Joint Committee on Government and Finance to study ways the state can leverage technology,

**H. C. R. 87**, Recognizing the last day of February every year as Rare Disease Day,

**H. C. R. 94**, Calling for the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side,

**H. C. R. 96**, Requesting the Joint Committee on Government and Finance study the hiring exemptions of the West Virginia State Tax Department and the West Virginia Division of Highways—Department of Transportation,

**H. C. R. 112**, Requesting the Joint Committee on Government and Finance to conduct a study the impact on counties that pay for the cost of transporting persons requiring mental health treatment and/or substance abuse treatment to mental health facilities or state hospitals outside of that county,

**H. C. R. 113**, Requesting the Joint Committee on Government and Finance study the licensing categories and regulation of contractors by the West Virginia Contractors Licensing Board,

**H. C. R. 114**, Requesting the Joint Committee on Government and Finance to conduct a study of licensure, certification and registration forms of occupational and professional regulation,

**H. C. R. 115**, Requesting the Joint Committee on Government and Finance to conduct a study of the feasibility of a single building to house all occupational and professional regulatory boards,

**H. C. R. 116**, Requesting the Joint Committee on Government and Finance to conduct a study duplicative and unnecessary professional and occupational regulations,

**H. C. R. 117**, Requesting the Joint Committee on Government and Finance to conduct a study of state procurement policies to identify best practices, including exploring exceptions to the statewide contract and purchasing policies generally,

**H. C. R. 118**, Requesting the Joint Committee on Government and Finance to conduct a study of state logging regulations regarding trucking and related insurance requirements compared to other logging intensive states,

**H. C. R. 126**, Requesting the Joint Committee on Government and Finance study the Division of Personnel regarding the policies and practices,

**H. C. R. 128**, Requesting the Joint Committee on Government and Finance study how state agencies can better manage the amount of state taxpayer dollars spend on utilities,

**H. C. R. 129**, Requesting the Joint Committee on Government and Finance study the professional and occupational licensing policies,

**H. C. R. 130**, Requesting the Joint Committee on Government and Finance to study the adoption and enforcement of the municipal building codes and property maintenance codes,

**H. C. R. 131**, Requesting a study to research the obstacles preventing private school students from attending vocational school in West Virginia,

**H. C. R. 132**, Requesting the Joint Committee on Government and Finance to conduct a study to consider the Icelandic Model for substance use prevention,

**H. C. R. 133**, Requesting a study of involuntary commitment practices for persons suffering from severe psychiatric illnesses,

**H. C. R. 134**, Requesting a study to determine the usage and whereabouts of federal money allocated to the State of West Virginia for the purpose of prevention and treatment efforts regarding the state opioid crisis,

**H. C. R. 135**, Requesting a study of prescription drug transparency laws, including reports on data submitted by health insurers, manufacturers, and pharmacy benefit managers,

**H. C. R. 136**, Requesting a study to present a plan for the combination of the Board of Medicine and the Board of Osteopathic Medicine,

**H. C. R. 137**, Requesting a study of appropriate identification and medical and rehabilitative interventions for persons who sustain a traumatic brain injury,

And,

**H. C. R. 138**, Requesting a study of sexual violence prevention and intervention services,

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

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

Your Committee on Rules has had under consideration:

**S. C. R. 10**, Requesting study of current WV laws relating to anti-bullying measures in schools,

**S. C. R. 25**, Requesting study on impact of future electromagnetic pulse catastrophe,

And,

**S. C. R. 46**, Requesting DEP and DHHR propose public source-water supply study plan,

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

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

Your Committee on Rules has had under consideration:

**H. R. 16**, Urging Congress to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia,

And reports the same back with the recommendation that it 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:

**S. C. R. 4**, Urging Congress call convention to propose amendment on congressional term limits,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended. *[NOTE: This was a new report to note that the resolution was reported with amendment.]*

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and again passed, as amended, in an effort to meet the objections of the Governor, of

**Enr. Com. Sub. for H. B. 2086**, Uniform Real Property Electronic Recording Act.

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. 4003**, Relating to telehealth insurance requirements.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

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

**§5-16-7b. Coverage for telehealth services.**

(a) The following terms are defined:

(1) ‘Distant site’ means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient’s health care practitioner.

(2) ‘Health care practitioner’ means a person licensed under §30-1-1 et seq. of this code who provides health care services.

(3) ‘Originating site’ means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner’s office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

(4) ‘Remote patient monitoring services’ means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(5) ‘Telehealth services’ means the use of synchronous or asynchronous telecommunications technology by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) After July 1, 2020, the plan shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.

(c) After July 1, 2020, the plan may not exclude a service for coverage solely because the service is provided through telehealth services.

(d) The plan shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company.

(e) The plan may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year,

lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(f) An originating site may charge the plan a site fee.

(g) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.

## CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

### ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

#### **§30-1-25. Telehealth practice.**

(a) For the purposes of this section:

'Health care practitioner' means a person licensed under §30-1-1 et seq. who provides health care services.

'Telehealth services' means the use of synchronous or asynchronous telecommunications technology by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) Unless already provided for by statute or legislative rule, a health care board, referred to in this chapter, shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 et seq. to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following:

(1) The practice of the health care service occurs where the patient is located at the time the telehealth technologies are used;

(2) The health care practitioner who practices telehealth must be licensed as provided in this chapter;

(3) When the health care practitioner patient relationship is established;

(4) The standard of care;

(5) A prohibition of prescribing schedule II drugs, unless authorized by another section; and

(6) Implement the provisions of this section while ensuring competency, protecting the citizens of this state from harm, and addressing issues specific to each profession.

## CHAPTER 33. INSURANCE.

### ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.

#### **§33-53-3. Coverage for telehealth services.**

(a) The following terms are defined:

(1) 'Distant site' means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient's health care practitioner.

(2) 'Health care practitioner' means a person licensed under §30-1-1 et seq. of this code who provides health care services.

(3) 'Originating site' means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

(4) 'Remote patient monitoring services' means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(5) 'Telehealth services' means the use of synchronous or asynchronous telecommunications technology by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) Notwithstanding the provisions of §33-1-1 et seq. of this code, an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.

(c) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, may not exclude a service for coverage solely because the service is provided through telehealth services.

(d) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq., of this code shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company.

(e) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(f) An originating site may charge an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code a site fee.

(g) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4003** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7b, to amend said code by adding thereto a new section, designated §30-1-25, and to amend said code by adding thereto a new section, designated §33-53-3, all relating to telehealth requirements; providing rulemaking authority; requiring boards to regulate telehealth practice; defining terms; requiring insurance coverage of certain telehealth services; providing an effective date; and providing limitation of applicability.”

With the further amendment, sponsored by Delegate Summers, being as follows:

On page four, by striking the section heading and inserting a new section heading to read as follows:

**“§33-53-1. Coverage of telehealth services.”**

And,

The further title amendment sponsored by Delegate Summers amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4003** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7b, to amend said code by adding thereto a new section, designated §30-1-25, and to amend said code by adding thereto a new section, designated §33-53-1, all relating to telehealth requirements; providing rulemaking authority; requiring boards to regulate telehealth practice; defining terms; requiring insurance coverage of certain telehealth services; providing an effective date; and providing limitation of applicability.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 685**), 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: Bibby, N. Brown and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4003) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4102**, Relating to opioid antagonists.

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

On page one, section three, by striking out the section caption and inserting in lieu thereof the following:

**“§16-46-3. Licensed health care providers may prescribe opioid antagonists to initial responders and certain individuals; required educational materials; limited liability.”**

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. 686**), 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: Bibby, N. Brown and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4102) passed.

Delegate Kessinger moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 687**), 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: Bibby, N. Brown and J. Kelly.

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. 4102) 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 passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4108**, Relating generally to certificates of need for health care services.

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

On page one, section eleven, line five, by striking out the words “the approval of”.

And,

On page one, section eleven, by striking out the section caption and inserting in lieu thereof the following:

**“§16-2D-11. Exemptions from Certificate of Need which require the submission of information to the authority.”**

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. 688**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bibby, N. Brown, Higginbotham and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4108) 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 passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4198**, Permitting a person to obtain a 12-month supply of contraceptive drugs.

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

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.**

##### **§5-16-28. Incorporation of the coverage for 12-month refill for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

#### **CHAPTER 33. INSURANCE.**

#### **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

##### **§33-15-4u. Incorporation of the coverage for 12-month refill for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

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

##### **§33-16-3ff. Incorporation of the coverage for 12-month refill for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

#### **ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS, AND HEALTH SERVICE CORPORATIONS.**

**§33-24-7u. Incorporation of the coverage for 12-month refill for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

**ARTICLE 25. HEALTH CARE CORPORATIONS.****§33-25-8r. Incorporation of the coverage for 12-month refill for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.****§33-25A-8u. Incorporation of the coverage for 12-month refill for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-1 of this code is made applicable to the provisions of this article.

**ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.****§33-53-1. Coverage and dispensing birth control.**

(a) Notwithstanding the a prohibition or limitation contained within the provisions of §33-1-1 et seq. and §5-16-1 of this code an insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code which amends, renews, or delivers a health policy on or after January 1, 2021, that provides coverage for contraceptive drugs, shall provide coverage for a 12-month refill of contraceptive drugs obtained at one time by the insured after the insured has completed the initial supply of the drugs, unless the insured requests a smaller supply or the prescribing provider instructs that the insured must receive a smaller supply. A health benefit plan that provides coverage shall allow the insured to receive the contraceptive drugs on-site at the provider's office, if available, and dispensing practices must follow all clinical guidelines for appropriate prescribing and dispensing to ensure the health of the patient while maximizing access to effective contraceptive drugs.

(b) A health benefit plan that provides coverage for hormonal contraceptives, in the absence of clinical contraindications, may not impose utilization controls or other forms of medical management limiting the supply of contraceptive drugs that may be dispensed or furnished by a provider or pharmacy, or at a location licensed or otherwise authorized to dispense drugs or supplies, to an amount that is less than a 12-month supply.

(c) This section does not exclude coverage for contraceptive drugs as prescribed by a provider for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

(d) Nothing in this section requires a health benefit plan to cover contraceptive drugs provided by a provider, pharmacy, or at a location authorized to dispense drugs or supplies, that does not participate in the health benefit plan's provider or pharmacy network, as applicable, except as may be otherwise authorized or required by state law or by the plan's policies governing out-of-network coverage.

(e) For purposes of this section, the term “contraceptive drugs” means all drugs approved by the United States Food and Drug Administration that are used to prevent pregnancy, including, but not limited to, hormonal drugs administered orally, transdermally, and intravaginally.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. H. 4198** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-28; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated 33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; to amend said code by adding thereto by adding thereto a new section, designated, §33-25A-8u; and to amend said code by adding thereto a new section, designated §33-53-2, all relating to permitting a person to obtain a 12-month supply of contraceptive drugs; and incorporating these provisions into the West Virginia Public Employees Insurance Act and sections of insurance code.”

With the further title amendment, sponsored by Delegate Summers amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4198-** “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-28; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated 33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; to amend said code by adding thereto by adding thereto a new section, designated, §33-25A-8u; and to amend said code by adding thereto a new section, designated §33-53-1, all relating to permitting a person to obtain a 12-month supply of contraceptive drugs; incorporating these provisions into the West Virginia Public Employees Insurance Act; and incorporating these provisions into the sections of insurance code.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 689**), and there were—yeas 88, nays 8, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bartlett, Butler, Fast, Jennings, C. Martin, P. Martin and Porterfield.

Absent and Not Voting: Bibby, N. Brown, Higginbotham and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4198) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4252**, Authorizing miscellaneous agencies and boards to promulgate legislative rules.



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

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.**

**§64-9-1. Board of Accountancy.**

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-9-5 of this code, modified by the Board of Accountancy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 8, 2019, relating to the Board of Accountancy (board rules and rules of professional conduct, 1 CSR 01), is authorized.

**§64-9-2. Board of Acupuncture.**

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Acupuncture (fees for the Board of Acupuncture, 32 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2019, relating to the Board of Acupuncture (auricular detoxification therapy certificate, 32 CSR 14), is authorized.

(c) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Acupuncture (application for waiver of initial licensing fees for certain individuals, 32 CSR 15), is authorized.

(d) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2019, relating to the Board of Acupuncture (consideration of prior criminal convictions in initial licensure determinations, 32 CSR 16), is authorized.

**§64-9-3. Commissioner of Agriculture.**

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (animal disease control, 61 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-37-3 of this code, relating to the Commissioner of Agriculture (Fresh Food Act, 61 CSR 10), is authorized.

(c) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-2C-3a of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the Commissioner of Agriculture (auctioneers, 61 CSR 11B), is authorized.

(d) The legislative rule filed in the State Register on July 11, 2019, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (poultry rules for hatcheries, growers, and contractors pertaining to poultry disease control and eradication, 61 CSR 13A), is authorized.

(e) The legislative rule filed in the State Register on January 7, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (grade “A” pasteurized milk, 61 CSR 15), is authorized.

(f) The legislative rule filed in the State Register on January 6, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (West Virginia manufacture-grade milk, 61 CSR 19), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-1-3b of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the Commissioner of Agriculture (employment reference and inquiries and background checks, 61 CSR 20), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-20C-3 of this code, relating to the Commissioner of Agriculture (West Virginia Spay-Neuter Assistance Program, 61 CSR 24), is authorized with the following amendments:

On page two, subsection 3.10, after the word “rule” by inserting the following words “to perform spay neuter services for eligible owners and caretakers”;

On page two, after subdivision 3.10.b., by inserting a new subsection, designated 3.11, to read as follows:

“3.11. “Low-income restricted program” means a spay neuter program that provides spay neuter services to owners or caretakers currently receiving assistance from at least one of the state and federal public assistance programs:

3.11.a. The Supplemental Nutrition Assistance Program (SNAP);

3.11.b. Medicaid;

3.11.c. Supplemental Security Income (SSI);

3.11.d. Thee West Virginia Low Income Energy Assistance Program (LIEAP);

3.11.e. Social Security Disability;

3.11.f. Temporary Assistance for Needy Families (TANF);

3.11.g. Aid to Families with Dependent Children (AFCD);

3.11.h. Children’s Health Insurance Program (CHIP); or

3.11.i. Low Income Veterans Assistance under 38 USC 2044.”; and re-numbering the remaining subsections;

On page four, subsection 6.1, after the word “delivery.” by adding the following sentence: “The Advisory Committee shall give preference to applicants that intend to operate a low-income restricted program.”

On page four, subsection 6.2, after the word “application.” by adding the following sentence: “The Commission shall give preference to applicants that intend to operate a low-income restricted program.”

And,

On page five, by striking out all of §61-24-7 and renumbering the remaining section.

(i) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-12E-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 6, 2020, relating to the Commissioner of Agriculture (industrial hemp, 61 CSR 29), is authorized with the following amendment:

On page six, section 5.6. by striking everything after the words “the commissioner may” and inserting in lieu thereof the following:

“upon request, and if permitted by the United States Department of Agriculture, permit a licensee to submit a Corrective Action Plan and request a second sampling and test of the crop following implementation of the Corrective Action Plan.”

(j) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-12E-7 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 6, 2020, relating to the Commissioner of Agriculture (hemp products, 61 CSR 30), is authorized with the following amendments:

On page four, section four, subdivision 4.6.a, after the words “changes in”, by adding the words “the chemical composition or formula of”;

On page five, section four, subdivision 4.6.c, after the words “changes to”, by adding the words “health-related”;

On page five, section four after subdivision 4.6.c, by renumbering the remaining subsections;

On page five, section four, subsection 4.7, after the word “retailer”, by adding the words “or distributor”;

On page five, section five, after subdivision 5.7, by inserting a new subdivision, designated subdivision 5.8 to read as follows:

5.8. A distributor of hemp products that does not itself engage in retail sales is not required to register under this section.

On page six, section seven, subsection 7.2, after the words “produced for”, by adding the word “topical”;

On page six, section seven, subsection 7.2, by striking the words “Cosmetic Product” and inserting in lieu thereof the words “Cosmetic Products”;

On page six, section seven, subsection 7.3, by striking the word “medical” and inserting in lieu thereof the words “disease or drug”;

On page six, section seven, by striking subsection 7.7 and renumbering the remaining subsections;

(k) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §19-2H-12 of this code, relating to the Commissioner of Agriculture (captive cervid farming, 61 CSR 34), is authorized with the following amendment:

On page nine, section eleven, by striking out all of section 11.15 and inserting in lieu thereof the following:

“11.15. The owner shall have a West Virginia licensed and accredited veterinarian or designee perform an annual visual examination of each animal and take an inventory to reconcile inventory records submitted with the license application or renewal. When the veterinarian performs the annual visual examination of each animal and takes an inventory, the West Virginia licensed and accredited veterinarian shall submit the veterinarian report to the Department within sixty (60) days of receipt and the inventory within thirty (30) days of completion.”

(l) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §19-35-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the Commissioner of Agriculture (farmers markets, 61 CSR 38), is authorized with the following amendment:

On page seven, section seven, subsection 7.4, after the word “products”, by inserting the words “excluding whole uncut produce and”.

(m) The legislative rule filed in the State Register on January 6, 2020, authorized under the authority of §19-11E-8 of this code, relating to the Commissioner of Agriculture (West Virginia exempted dairy farms and milk and milk products processing rules, 61 CSR 40), is authorized.

#### **§64-9-4. Board of Architects.**

(a) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-12-1 of this code, modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Architects (registration of architects, 2 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 16, 2019, authorized under the authority of §30-12-3 of this code, modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Architects (fees for registration of architects, 2 CSR 03), is authorized.

#### **§64-9-5. Board of Chiropractic Examiners.**

(a) The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2019,

relating to the Board of Chiropractic Examiners (application for waiver of initial licensing fees for certain individuals, 4 CSR 07), is authorized.

(b) The legislative rule filed in the State Register on September 10, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Chiropractic Examiners (consideration of prior criminal convictions in initial licensure determinations, 4 CSR 08), is authorized.

#### **§64-9-6. Board of Examiners in Counseling.**

The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 9, 2019, relating to the Board of Examiners in Counseling (application for waiver of initial licensing fees for certain individuals, 27 CSR 13), is authorized.

#### **§64-9-7. West Virginia Board of Dentistry.**

(a) The legislative rule filed in the State Register on September 20, 2019, authorized under the authority of §30-4-6 of this code, relating to the West Virginia Board of Dentistry (rule for the West Virginia Board of Dental Examiners, 5 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 19, 2019, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the West Virginia Board of Dentistry (dental advertising, 5 CSR 08), is authorized.

#### **§64-9-8. Board of Licensed Dietitians.**

(a) The legislative rule filed in the State Register on August 30, 2019, authorized under the authority of §30-35-4 of this code, modified by the Board of Licensed Dietitians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the Board of Licensed Dietitians (licensure and renewal requirements, 31 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Licensed Dietitians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the Board of Licensed Dietitians (application for waiver of initial licensing fees for certain individuals, 31 CSR 06), is authorized.

#### **§64-9-9. Election Commission.**

(a) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §3-8-8 of this code, modified by the Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Election Commission (corporate and membership organization political activity, 146 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §3-1A-5 of this code, modified by the Election Commission to meet the objections of the Legislative

Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Election Commission (regulation of campaign finance, 146 CSR 03), is authorized.

**§64-9-10. Board of Funeral Service Examiners.**

(a) The legislative rule filed in the State Register on July 23, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Funeral Service Examiners (application for waiver of initial licensing fees for certain individuals, 6 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Board of Funeral Service Examiners (consideration of prior criminal convictions in initial licensure determinations, 6 CSR 06), is authorized.

**§64-9-11. Board of Hearing Aid Dealers.**

(a) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Hearing Aid Dealers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2019, relating to the Board of Hearing Aid Dealers (application for waiver of initial licensing fees for certain individuals, 8 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Hearing Aid Dealers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Board of Hearing Aid Dealers (consideration of prior criminal convictions in initial licensure determinations, 8 CSR 05), is authorized.

**§64-9-12. Board of Landscape Architects.**

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 21, 2019, relating to the Board of Landscape Architects (consideration of prior criminal convictions in initial licensure determinations, 9 CSR 05), is authorized.

**§64-9-13. Massage Therapy Licensure Board.**

(a) The legislative rule filed in the State Register on July 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Massage Therapy Licensure Board (application for waiver of initial licensing fees for certain individuals, 194 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on September 24, 2019, authorized under the authority of §30-1-24 of this code, modified by the Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2019, relating to the Massage Therapy Licensure Board (consideration of prior criminal convictions in initial licensure determinations, 194 CSR 06), is authorized.

**§64-9-14. Medical Imaging and Radiation Therapy Technology Board of Examiners.**

The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-23-7 of this code, modified by the Medical Imaging and Radiation Therapy Technology Board of Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 31, 2019, relating to the Medical Imaging and Radiation Therapy Technology Board of Examiners (West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, 18 CSR 01), is authorized.

**§64-9-15. Board of Medicine.**

(a) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-3E-3 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 8, 2019, relating to the Board of Medicine (licensure, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 01B), is authorized.

(b) The legislative rule filed in the State Register on July 25, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 8, 2019, relating to the Board of Medicine (waiver of initial licensing fees for certain initial licensure applicants, 11 CSR 13), is authorized.

**§64-9-16. Nursing Home Administrators Licensing Board.**

The legislative rule filed in the State Register on November 26, 2019, authorized under the authority of §30-25-6 of this code, modified by the Nursing Home Administrators Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 27, 2019, relating to the Nursing Home Administrators Licensing Board (nursing home administrators, 21 CSR 01), is authorized.

**§64-9-17. Board of Occupational Therapy.**

(a) The legislative rule filed in the State Register on July 3, 2019, authorized under the authority of §30-28-7 of this code, relating to the Board of Occupational Therapy (fees for services rendered by the Board, 13 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on July 3, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Occupational Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 30, 2019, relating to the Board of Occupational Therapy (request for waiver of initial licensing fees for certain individuals, 13 CSR 07), is authorized.

(c) The legislative rule filed in the State Register on December 2, 2019, authorized under the authority of §30-1-24 of this code, relating to the Board of Occupational Therapy (consideration of prior criminal convictions in initial licensure determinations, 13 CSR 08), is authorized.

**§64-9-18. Board of Optometry.**

The legislative rule filed in the State Register on October 1, 2019, authorized under the authority of §30-8-6 of this code, modified by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 26, 2019, relating to the Board of Optometry (rules for the West Virginia Board of Optometry, 14 CSR 01), is authorized.

**§64-9-19. Board of Osteopathic Medicine.**

(a) The legislative rule filed in the State Register on July 31, 2019, authorized under the authority of §30-3E-3 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2019, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 14, 2019, relating to the Board of Osteopathic Medicine (waiver of initial licensing fees for certain initial licensure applicants, 24 CSR 08), is authorized.

**§64-9-20. Board of Pharmacy.**

(a) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Pharmacy (record keeping and automated data processing systems, 15 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (Board of Pharmacy rules for registration of pharmacy technicians, 15 CSR 07), is authorized with the following amendments:

On page five, section four, by striking out subdivision 4.3.c and inserting the following:

“4.3.c. has not been convicted of a crime bearing a rational nexus to the practice duties of a pharmacy technician. For other convictions not bearing a rational nexus to the practice of pharmacy, the Board shall permit the applicant to apply for initial licensure if.”

And

On page ten, section 6, by striking subsection 6.7 and 6.8 and inserting the following:

“6.7. has not been convicted of a crime bearing a rational nexus to the practice duties of a pharmacy technician. For other convictions not bearing a rational nexus to the practice of pharmacy, the Board shall permit the applicant to apply for initial licensure if:

6.7.a. a period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

6.7.b. the individual has not been convicted of any other crime during the period of time following the disqualifying offense; and



6.7.c. the conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the individual board."

And,

By renumbering the remaining subsections.

(d) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, relating to the Board of Pharmacy (Board of Pharmacy rules for immunizations administered by pharmacists and pharmacy interns, 15 CSR 12), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Pharmacy (Board of Pharmacy rules for centralized prescription processing, 15 CSR 14), is authorized.

(f) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (regulations governing pharmacy permits, 15 CSR 15), is authorized.

(g) The legislative rule filed in the State Register on October 10, 2019, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 2, 2019, relating to the Board of Pharmacy (regulations governing pharmacists, 15 CSR 16), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2019, relating to the Board of Pharmacy (application for waiver of initial licensing fees for certain individuals, 15 CSR 18), is authorized.

#### **§64-9-21. Board of Physical Therapy.**

(a) The legislative rule filed in the State Register on September 30, 2019, authorized under the authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (general provisions for physical therapist and physical therapist assistants, 16 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on September 30, 2019, authorized under the authority of §30-20-6 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (fees for physical therapist and physical therapist assistant, 16 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on September 23, 2019, authorized under the authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (general provisions for athletic trainers, 16 CSR 05), is authorized.

(d) The legislative rule filed in the State Register on September 23, 2019, authorized under the authority of §30-20A-2 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (fees for athletic trainers, 16 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 18, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Physical Therapy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 27, 2019, relating to the Board of Physical Therapy (application for waiver of initial licensing fees for certain individuals, 16 CSR 09), is authorized.

#### **§64-9-22. Board of Registration for Professional Engineers.**

The legislative rule filed in the State Register on September 20, 2019, authorized under the authority of §30-13-9 of this code, modified by the Board of Registration for Professional Engineers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 18, 2019, relating to the Board of Registration for Professional Engineers (examination, licensure and practice of professional engineers, 7 CSR 01), is authorized.

#### **§64-9-23. Board of Professional Surveyors.**

The legislative rule filed in the State Register on September 17, 2019, authorized under the authority of §30-13A-6 of this code, modified by the Board of Professional Surveyors to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2019, relating to the Board of Professional Surveyors (examination and licensing of professional surveyors in West Virginia, 23 CSR 01), is authorized.

#### **§64-9-24. Board of Psychologists.**

The legislative rule filed in the State Register on October 11, 2019, authorized under the authority of §30-1-23 and §30-1-24 of this code, modified by the Board of Psychologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 8, 2020, relating to the Board of Psychologists (consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals, 17 CSR 07), is authorized.

#### **§64-9-25. Real Estate Appraiser Licensing and Certification Board.**

The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-38-9 of this code, modified by the Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 6, 2019, relating to the Real Estate Appraiser Licensing and Certification Board (requirements for licensure and certification, 190 CSR 02), is authorized.

#### **§64-9-26. Real Estate Commission.**

(a) The legislative rule filed in the State Register on July 2, 2019, authorized under the authority of §30-1-23 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2019, relating to the Real Estate Commission (application for waiver of initial licensing fees for certain individuals, 174 CSR 06), is authorized.

(b) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-1-24 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 3, 2019, relating to the Real Estate Commission (consideration of prior criminal convictions in initial license eligibility determination, 174 CSR 07), is authorized.

**§64-9-27. Board of Examiners for Registered Professional Nurses.**

(a) The legislative rule filed in the State Register on October 11, 2019, authorized under the authority of §30-7-4 of this code, relating to the Board of Examiners for Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on August 22, 2019, authorized under the authority of §30-1-23 of this code, modified by the Board of Examiners for Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 7, 2019, relating to the Board of Examiners for Registered Professional Nurses (request for waiver of initial licensing fees for certain individuals, 19 CSR 15), is authorized.

**§64-9-28. West Virginia Board of Respiratory Care.**

(a) The legislative rule filed in the State Register on June 27, 2019, authorized under the authority of §30-34-6a of this code, modified by the West Virginia Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 1, 2019, relating to the West Virginia Board of Respiratory Care (establishment of fees, 30 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on June 27, 2019, authorized under the authority of §30-34-6a of this code, modified by the West Virginia Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 2, 2019, relating to the West Virginia Board of Respiratory Care (student temporary permit, 30 CSR 09), is authorized.

(c) The legislative rule filed in the State Register on December 10, 2019, authorized under the authority of §30-1-24 of this code, relating to the Board of Respiratory Care (consideration of prior criminal convictions in initial licensure determinations, 30 CSR 10), is authorized.

**§64-9-29. Board of Sanitarians.**

The legislative rule filed in the State Register on November 1, 2019, authorized under the authority of §30-17-6 of this code, modified by the Board of Sanitarians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 7, 2020, relating to the Board of Sanitarians (waiver of initial application fees and criteria for initial licensure, 20 CSR 05), is authorized.

**§64-9-30. Board of Social Work.**

(a) The legislative rule filed in the State Register on September 27, 2019, authorized under the authority of §30-30-6 of this code, modified by the Board of Social Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 1, 2019, relating to the Board of Social Work (qualifications for the profession of social work, 25 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §30-30-6 of this code, modified by the Board of Social Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 10, 2019, relating to the Board of Social Work (fee schedule, 25 CSR 03), is authorized.

**§64-9-31. Board of Speech-Language Pathology and Audiology.**

(a) The legislative rule filed in the State Register on June 28, 2019, authorized under the authority of §30-32-7 of this code, modified by the Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 4, 2019, relating to the Board of Speech-Language Pathology and Audiology (licensure of speech-pathology and audiology, 29 CSR 01), is authorized with the following amendments:

On page seven, subdivision 10.8.1.a., following the word “for”, by inserting the words, “active duty”.

And,

On page seven, subdivision 10.8.2.a., following the word “for”, by inserting the words, “active duty”.

(b) The legislative rule filed in the State Register on September 17, 2019, authorized under the authority of §30-32-7 of this code, modified by the Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2019, relating to the Board of Speech-Language Pathology and Audiology (disciplinary and complaint procedures for speech-language pathology and audiology, 29 CSR 04), is authorized.

**§64-9-32. State Auditor.**

The legislative rule filed in the State Register on July 8, 2019, authorized under the authority of §6-9-2a of this code, relating to the State Auditor (local government purchasing card program, 155 CSR 06), is authorized.

**§64-9-33. State Conservation Committee.**

The legislative rule filed in the State Register on July 10, 2019, authorized under the authority of §19-21A-4(g)(11) of this code, relating to the State Conservation Committee (State Conservation Committee Grant Program, 63 CSR 03), is authorized.

**§64-9-34. Board of Veterinary Medicine.**

(a) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 2, 2020, relating to the Board of Veterinary Medicine (organization and operation and licensing of veterinarians, 26 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 2,

2020, relating to the Board of Veterinary Medicine (registration of veterinary technicians, 26 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on September 9, 2019, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 2, 2020, relating to the Board of Veterinary Medicine (schedule of fees, 26 CSR 06), is authorized with the amendments set forth below:

On page two, Section 3.6, by striking out "\$100.00" and inserting in lieu thereof "\$10.00";

On page 2, Section 3.7, by striking out "\$80.00" and inserting in lieu thereof "\$5.00";

On page 2, Section 3.8, by striking out "\$25.00" and inserting in lieu thereof "\$2.00";

And,

On page two, Section 3.9, by striking out "\$80.00" and inserting in lieu thereof "\$6.00".

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4252** – "A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Board of Acupuncture to promulgate a legislative rule relating to fees for the Board of Acupuncture; authorizing the Board of Acupuncture to promulgate a legislative rule relating to auricular detoxification therapy certificate; authorizing the Board of Acupuncture to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Acupuncture to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to Fresh Food Act; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to poultry rules for hatcheries, growers, and contractors pertaining to poultry disease control and eradication; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to grade "A" pasteurized milk; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia manufacture-grade milk; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to employment reference and inquiries and background checks; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia Spay-Neuter Assistance Program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to hemp products; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid farming; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia exempted dairy farms and milk and milk products processing rules; authorizing the Board of Architects to promulgate a legislative rule relating to registration of architects; authorizing the Board of Architects to promulgate a legislative rule relating to fees for registration of architects; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating

to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Chiropractic Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Dentistry to promulgate a legislative rule relating to rule for the West Virginia Board of Dental Examiners; authorizing the Board of Dentistry to promulgate a legislative rule relating to dental advertising; authorizing the Board of Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the Board of Dietitians to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Election Commission to promulgate a legislative rule relating to corporate and membership organization political activity; authorizing the Election Commission to promulgate a legislative rule relating to regulation of campaign finance; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Funeral Service Examiners to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Massage Therapy Licensure Board to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education, physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain initial licensure applicants; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to fees for services rendered by the Board; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to request for waiver of initial licensing fees for certain individuals; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Optometry to promulgate a legislative rule relating to rules for the West Virginia Board of Optometry; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to waiver of initial licensing fees for certain initial licensure applicants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for immunizations administered by pharmacists and pharmacy interns; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for centralized prescription processing; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacy permits; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for physical therapist and physical therapist assistants; authorizing the Board of

Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist assistant; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Board of Registration for Professional Engineers to promulgate a legislative rule relating to examination, licensure and practice of professional engineers; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to examination and licensing of professional surveyors in West Virginia; authorizing the Board of Psychologists to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations and application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Real Estate Commission to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Real Estate Commission to promulgate a legislative rule relating to consideration of prior criminal convictions in initial license eligibility determination; authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to request for waiver of initial licensing fees for certain individuals; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to establishment of fees; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to student temporary permit; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to consideration of prior criminal convictions in initial licensure determinations; authorizing the Board of Sanitarians to promulgate a legislative rule relating to waiver of initial application fees and criteria for initial licensure; authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Board of Social Work to promulgate a legislative rule relating to fee schedule; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to disciplinary and complaint procedures for speech-language pathology and audiology; authorizing the State Auditor to promulgate a legislative rule relating to local government purchasing card program; authorizing the State Conservation Committee to promulgate a legislative rule relating to State Conservation Committee Grant Program; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to organization and operation and licensing of veterinarians; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to registration of veterinary technicians; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to schedule of fees.”

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. 690**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Paynter.

Absent and Not Voting: Bibby, N. Brown, Higginbotham and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4252) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 691**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: P. Martin and Paynter.

Absent and Not Voting: Bibby, N. Brown and J. Kelly.

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. 4252) 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 passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4378**, Relating to disciplining teachers.

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

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 2. SCHOOL PERSONNEL.**

**§18A-2-8. Suspension and dismissal of school personnel by board; appeal.**

(a) Notwithstanding any other provisions of law, a board may suspend or dismiss any person in its employment at any time for: Immorality, incompetency, cruelty, insubordination, intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the Department of Health and Human Resources in accordance with §49-1-1 *et seq.* of this code, the conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a rational nexus between the conduct and performance of the employee’s job, the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

(b) A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be stated in writing served upon the employee within two days of presentation of the charges to the board.

(c) The affected employee shall be given an opportunity, within five days of receiving the written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of §6C-2-1 *et seq.* of this code, except that dismissal for a finding of abuse or the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee’s job, or child abuse may be reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges.

(d) A county board of education has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may take necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, and welfare



of students be jeopardized or the learning environment of other students has been impacted. A county board shall complete an investigation of an employee that involves evidence that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students despite the employee's resignation from employment prior to completion of the investigation.

(e) It shall be the duty of any county superintendent to report any employee suspended or dismissed, or resigned during the course of an investigation of the employee's alleged misconduct, in accordance with this section, including the rationale for the suspension or dismissal, to the state superintendent within seven business days of the suspension, dismissal, or resignation. The state superintendent shall maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, and welfare of students, or for impacting the learning environment of other students. The database shall also include the rationale for the suspension or dismissal. The database shall be confidential and shall only be accessible to county human resource directors, county superintendents, and the state superintendent.

### **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.**

#### **§18A-3-6. Ground Grounds for revocation or suspension of certificates; other authorized actions by state superintendent; required reporting by county superintendents; and recalling certificates for correction.**

(a) The State Superintendent may, after 10 days' notice and upon proper evidence, revoke or suspend the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: *Provided*, That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The State Superintendent shall also have the authority to limit certificates, issue letters of admonishment, or enter into consent agreements requiring specific training in order for a teacher to maintain a certificate. The State Superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the State Superintendent. The State Superintendent may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person subject to licensure by the State Superintendent.

~~(b) Provided further, That~~ A teacher, as defined by West Virginia Code §18-1-1(g), convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, any criminal offense that requires the teacher to register as a sex offender, or any criminal offense which has as an element delivery or distribution of a controlled substance, or pleads guilty to or is convicted under the provisions of §61-2-1 of this code or has been so convicted under any law of the United States or any other state for an offense which has the same elements as those offenses described in §61-2-1, shall have his or her certificate or license automatically revoked. Should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this State or the United States, the teacher's certification shall be reinstated unless otherwise prohibited by law.

(c) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding a license granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship with all students at all times, both in and out of the classroom. Following a hearing as provided in subsection (a) of this section, any teacher found to have committed any act of sexual abuse of a student or minor or

to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in or consummated an inappropriate relationship with any student, minor, or individual; exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct which then escalated into a relationship with the exploited student within 12 months of that student's graduation; or engaged in grooming a student or minor shall have his or her license revoked for a period of time not less than five years. For the purposes of this subsection, "grooming a student or minor" means befriending and establishing an emotional connection with a student or minor, which may include the family of the student or minor, to lower the student's or minor's inhibitions with the objective of committing sexual abuse, child trafficking, child prostitution, the production of child pornography, or any other offense for which a license shall be revoked under this subsection.

~~(b)~~ (d) Any county superintendent, public school principal, or public charter school administrator who knows of any acts on the part of any teacher for which a certificate may be revoked or for which other action may be taken in accordance with this section shall report this, together with all the facts and evidence, to the State Superintendent for such action as in the State Superintendent's judgment may be proper.

~~(e)~~ (e) If a certificate has been granted through an error, oversight, or misinformation, the State Superintendent may recall the certificate and make such corrections as will conform to the requirements of law and the state board.

(f) The state superintendent shall maintain a public database of individuals who have had adverse action taken against their teaching certificate by the state superintendent. Individuals whose certificate has been revoked by the state superintendent are not eligible to be employed by a county board unless the individual's certificate is subsequently reinstated by the state superintendent.

(g) This section applies to all public school teachers whether employed by a county board or the governing board of a public charter school.

(h) The state superintendent shall periodically ensure that county boards are acting in compliance with this section.

(i) The state board may propose legislative rules pursuant to §29A-3B-1 et seq. of this code that are necessary to implement the provisions of this section."

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4378** – "A Bill to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended; and to amend §18A-3-6 of said code, all relating to school personnel; requiring a county board of education to complete an investigation of an employee that involves evidence that the employee may have engaged in certain conduct despite the employee's resignation; limiting time period for a county superintendent to report any employee suspended, dismissed, or who resigned during the course of an investigation of the employee's alleged misconduct; authorizing suspension of teaching certificate in certain instances and for certain causes; authorizing additional sanction options by the state superintendent with respect to violations; authorizing superintendent to issue subpoenas to aid investigation of allegations against persons subject to licensure; adding to reasons for which a teacher's certificate or license is automatically revoked; requiring professional relationship with students; providing minimum revocation period for offenses and specifying offenses; defining grooming a student or minor; adding a public school principal and public charter school administrator to the requirement to report certain acts of any teacher to the State Superintendent; requiring the

State Superintendent to maintain a public database of individuals who have had adverse action taken against their teaching certificate; providing that individuals whose certificate has been revoked are not eligible to be employed by a county board until their certificate is reinstated; clarifying that all of certain teacher certificate provisions apply to all public school teachers whether employed by a county board or a public charter school governing board; requiring State Superintendent to periodically ensure that county boards are in compliance with certain teacher certificate provisions; and allowing the state board to propose legislative rules that are necessary to implement certain provisions pertaining to action against a teacher certificate.”

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. 692**), 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: Bibby, N. Brown and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4378) 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 by the Senate in the amendment of the House of Delegates to the amendment of the Senate, to take effect July 1, 2020, as amended, of

**Com. Sub. for H. B. 4438**, Relating to the licensing of advance deposit wagering.

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. 4461**, Requiring the Governor to fix the salaries of certain state appointed officers after the office is vacated or after July 1.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

On page three, section two-a, line fifty-eight, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

“(e) The annual salary of each appointive state officer named in this section shall continue in the amount as set forth in this section from the effective date of the amendments to this section enacted in 2020 until the position held by the officer is vacated. After a vacancy occurs and notwithstanding any other provision of this section to the contrary, the annual salary of each appointed state officer named in this section shall be fixed by the Governor within the current budget allocation. The salary of each appointed state officer named in this section shall be listed in the appointment letter for the position.”

With the further amendment, sponsored by Delegates Householder and Summers, being as follows:

On page one of the amendment, line three, following the words “enacted in 2020”, by striking out the remainder of the amendment and inserting an comma and the words “whichever occurs first. After the vacancy or after July 1, 2020, whichever occurs first, unless otherwise prohibited by law, the annual salary of each appointed state officer named in this section shall be fixed by the Governor within the current budget allocation. In the event the annual salary fixed by the Governor for an appointed state officer named in this section exceeds the amount set forth in this section for the appointed state officer, the amount of the annual salary for the appointed state officer shall be set forth in a line-item in the budget bill, and payment of an annual salary to the appointed state officer may not exceed that amount but may be lower than the salary approved in the budget bill or established in this section. The salary of a newly appointed state officer named in this section shall be included in the appointment letter for the position.”

And,

The further title amendment sponsored by Delegates Summers and Householder amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4461** – “A Bill to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended, relating to requiring the Governor to fix the annual salaries of certain state appointed officers after the office is vacated or after July 1, 2020, whichever occurs first; requiring that the salary be within the current budget allocation; requiring the amount of the annual salary for appointed state officer be set forth in a line-item in the budget bill; limiting payment of salary to amount approved in budget bill; allowing lower salaries; and requiring that the salary of each such appointed state officer be listed in the appointment letter for the position.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 693**), and there were—yeas 84, nays 13, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Butler, Canestraro, Diserio, Foster, Kessinger, P. Martin, Paynter, Steele, C. Thompson, Waxman, Wilson and Zukoff.

Absent and Not Voting: Bibby, N. Brown and J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4461) passed.

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

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. 4668**, Creating the misdemeanor crime of trespass for entering a structure that has been condemned.

Delegate Kessinger moved the House of Delegates concur in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3B. TRESPASS.**

**§61-3B-2. Trespass in structure or conveyance.**

(a) Any person who knowingly enters in, upon, or under a structure or conveyance without being authorized, licensed, or invited, or having been authorized, licensed, or invited is requested to depart by the owner, tenant, or the agent of ~~such~~ the owner or tenant, and refuses to do so, ~~shall be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$100.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who, without permission, knowingly and willfully enters a structure which has a clear posting that the structure has been condemned by any municipal or county government as unfit for human habitation or use, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100, or confined in jail not more than six months, or both fined and confined: *Provided*, That for any first violation of this subsection offense of trespass on condemned property, a court may substitute community service or pretrial diversion in lieu of a fine or confinement for trespassing on condemned property.

~~(b)(c)~~ (c) If the offender is armed with a firearm or other dangerous weapon while in the structure or conveyance, with the intent to do bodily injury to a human being in ~~said~~ the structure or conveyance at the time the offender knowingly trespasses, ~~such~~ the offender ~~shall~~, notwithstanding the provisions of §61-7-1 of this code, ~~be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, or be confined in ~~the county~~ jail for a ~~period not to exceed~~ not more than one year, or both ~~such~~ fined and ~~imprisonment~~ confined.”

And,

By amending the title of the bill to read as follows:

**H. B. 4668** – “A Bill to amend and reenact §61-3B-2 of the Code of West Virginia, 1931, as amended, relating to creating the misdemeanor crime of trespass for entering a structure that has been clearly marked as condemned by a municipality as unfit for human habitation; providing criminal penalty; removing inconsistent language as to intent; and providing that for a first offense, a municipal judge or magistrate may impose community service or pretrial diversion in lieu of a fine or confinement.”

On the motion to concur, the House of Delegates divided and the motion was adopted.

Delegate Fleischauer moved to reconsider the vote by which the House in concurred in the Senate amendments.

On this question, the yeas and nays were taken (**Roll No. 694**), and there were—yeas 54, nays 46, absent and not voting none, with the nays being as follows:

Nays: Atkinson, Azinger, Bates, N. Brown, Byrd, Campbell, Canestraro, Caputo, Cowles, Criss, Diserio, Espinosa, Evans, Fluharty, Hanna, Hartman, Hicks, Hornbuckle, Hott, Householder, D. Kelly, J. Kelly, Lavender-Bowe, Linville, Little, Longstreth, Lovejoy, Mandt, P. Martin, Maynard, McGeehan, Miley, Nelson, Paynter, Pushkin, Robinson, Rodighiero, Skaff, Sponaule, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Wilson, Zukoff and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House of Delegates having voted in the affirmative the motion was adopted.

The question being on concurring in the amendments of the bill by the Senate, the yeas and nays were demanded which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 695**), and there were—yeas 70, nays 29, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barnhart, Barrett, Bartlett, Bibby, S. Brown, Butler, Cadle, Doyle, Fast, Fleischauer, Foster, Graves, Hamrick, Higginbotham, D. Jeffries, J. Jeffries, Kessinger, Kump, C. Martin, Pack, Phillips, Porterfield, Queen, Steele, Summers, Toney, Walker, Waxman and Westfall.

Absent and Not Voting: Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the House concurred in the Senate amendments.

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. 696**), and there were—yeas 81, nays 18, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, S. Brown, Doyle, Estep-Burton, Fluharty, Foster, Graves, Lavender-Bowe, C. Martin, Pack, Paynter, Sponaugle, Steele, Summers, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4668) 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 House of Delegates amendment, with amendment, and the passage, as amended, of

**S. B. 842**, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years.

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

On page two, section thirteen, subsection (c), line thirty-three, by striking out “F” and inserting in lieu thereof the words “D, at a minimum,”.

On page two, section thirteen, line twenty-eight, by striking out the word “a” and inserting in lieu thereof the words “an advisory”;

And,

On page two, section thirteen, line twenty-nine, by striking out the word “establish” and inserting in lieu thereof the words “advise the county superintendent and county board on”.

And,

By amending the title of the bill to read as follows:

**S. B. 842** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, all relating to requiring the State Superintendent of Schools to immediately establish a Behavior Interventionist Pilot Program in two county school districts for the duration of five years; setting forth criteria to be used in the selection of the two county school districts; allowing the two county school districts to immediately create a new behavior interventionist position; requiring the county superintendent to convene an advisory committee consisting of certain school personnel and the education organizations to advise the county superintendent and county board on qualifications and hiring; requiring behavior interventionists to be designated by the county board as either a professional person or a service person; requiring the designated county school districts to establish the qualifications and training requirements; and requiring annual report to the Legislative Oversight Commission on Education Accountability.”

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. 697**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Butler, Cadle and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 842) passed.

Delegate Summers moved that the bill take effect its passage.

On this question, the yeas and nays were taken (**Roll No. 698**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Butler and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 842) 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 passage, as amended, of

**Com. Sub. for S. B. 144**, Creating misdemeanor penalty for making materially false statement in course of misdemeanor investigation.

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. 289**, Creating Green Alert Plan.

A message from the Senate, by

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

**Com. Sub. for S. B. 490**, Relating to criminal offenses against agricultural facilities.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, to take effect July 1, 2020, of

**Com. Sub. for S. B. 578**, Recalculating tax on generating, producing, or selling electricity from solar energy facilities.

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. 614**, Changing method of allocating funding from Safe School Funds.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had concurred in the changed effective date, to take effect July 1, 2020, of

**Com. Sub. for S. B. 662**, Removing restrictions on fiduciary commissioners.

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. 668**, Enacting Uniform Trust Decanting Act.

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. 678**, Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program.

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. 750**, Establishing extended learning opportunities.

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. 812**, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services.



**Miscellaneous Business**

Pursuant to House Rule 94b, a form was filed with the Clerk's Office to be added as a cosponsor of the following:

- Delegate Pyles for H. B. 3026

Delegate Williams noted to the Clerk that he was absent when the vote was taken on S. B. 716, and had he been present, he would have voted "Yea" thereon.

Delegate Sypolt noted to the Clerk that she was absent when the vote was taken on Com. Sub. for H. B. 4361, and had she been present, she would have voted "Yea" thereon.

At 5:45 p.m., the House of Delegates adjourned until 10:00 a.m., Saturday, March 7, 2020.

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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**

**Saturday, March 7, 2020**

**60<sup>th</sup> Day**

**10:00 A. M.**

### **UNFINISHED BUSINESS**

- S. C. R. 4 - Urging Congress call convention to propose amendment on congressional term limits (JUDICIARY COMMITTEE AMENDMENT PENDING)
- S. C. R. 10 - Requesting study of current WV laws relating to anti-bullying measures in schools
- S. C. R. 25 - Requesting study on impact of future electromagnetic pulse catastrophe
- S. C. R. 46 - Requesting DEP and DHHR propose public source-water supply study plan
- Com. Sub. for H. C. R. 12 - Feasibility study of extracting rare earth elements from coal ash
- H. R. 16 - Urging Congress to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia
- H. C. R. 85 - Requesting Joint Committee on Government and Finance to study ways the state can leverage technology
- H. C. R. 87 - Recognizing the last day of February every year as Rare Disease Day
- H. C. R. 94 - Calling for the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side
- H. C. R. 96 - Requesting the Joint Committee on Government and Finance study the hiring exemptions of the West Virginia State Tax Department and the West Virginia Division of Highways— Department of Transportation
- H. C. R. 112 - Requesting the Joint Committee on Government and Finance to conduct a study the impact on counties that pay for the cost of transporting persons requiring mental health treatment and/or substance abuse treatment to mental health facilities or state hospitals outside of that county

- H. C. R. 113 - Requesting the Joint Committee on Government and Finance study the licensing categories and regulation of contractors by the West Virginia Contractors Licensing Board
- H. C. R. 114 - Requesting the Joint Committee on Government and Finance to conduct a study of licensure, certification and registration forms of occupational and professional regulation
- H. C. R. 115 - Requesting the Joint Committee on Government and Finance to conduct a study of the feasibility of a single building to house all occupational and professional regulatory boards
- H. C. R. 116 - Requesting the Joint Committee on Government and Finance to conduct a study duplicative and unnecessary professional and occupational regulations
- H. C. R. 117 - Requesting the Joint Committee on Government and Finance to conduct a study of state procurement policies to identify best practices, including exploring exceptions to the statewide contract and purchasing policies generally
- H. C. R. 118 - Requesting the Joint Committee on Government and Finance to conduct a study of state logging regulations regarding trucking and related insurance requirements compared to other logging intensive states
- H. C. R. 126 - Requesting the Joint Committee on Government and Finance study the Division of Personnel regarding the policies and practices
- H. C. R. 128 - Requesting the Joint Committee on Government and Finance study how state agencies can better manage the amount of state taxpayer dollars spend on utilities
- H. C. R. 129 - Requesting the Joint Committee on Government and Finance study the professional and occupational licensing policies
- H. C. R. 130 - Requesting the Joint Committee on Government and Finance to study the adoption and enforcement of the municipal building codes and property maintenance codes
- H. C. R. 131 - Requesting a study to research the obstacles preventing private school students from attending vocational school in West Virginia
- H. C. R. 132 - Requesting the Joint Committee on Government and Finance to conduct a study to consider the Icelandic Model for substance use prevention
- H. C. R. 133 - Requesting a study of involuntary commitment practices for persons suffering from severe psychiatric illnesses

- H. C. R. 134 - Requesting a study to determine the usage and whereabouts of federal money allocated to the State of West Virginia for the purpose of prevention and treatment efforts regarding the state opioid crisis
- H. C. R. 135 - Requesting a study of prescription drug transparency laws, including reports on data submitted by health insurers, manufacturers, and pharmacy benefit managers
- H. C. R. 136 - Requesting a study to present a plan for the combination of the Board of Medicine and the Board of Osteopathic Medicine
- H. C. R. 137 - Requesting a study of appropriate identification and medical and rehabilitative interventions for persons who sustain a traumatic brain injury
- H. C. R. 138 - Requesting a study of sexual violence prevention and intervention services
- H. C. R. 141 - Urging the President and Congress of the United States of America take no action to employ military forces of the United States in active duty combat unless the United States Congress has passed an official declaration of war

### **THIRD READING**

- Com. Sub. for S. B. 253 - Providing for fair pay and maximized employment of disabled persons (SHOTT) (REGULAR)
- Com. Sub. for S. B. 752 - Relating generally to medical cannabis (SHOTT) (EFFECTIVE FROM PASSAGE) [AMENDMENTS PENDING] [RIGHT TO AMEND]
- S. B. 854 - Expiring funds to Division of Culture and History from Auditor's Office, Purchasing Card Administration Fund (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 855 - Expiring funds to State Rail Authority, WV Commuter Rail Access Fund from Auditor's Office, Purchasing Card Administration Fund (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 856 - Expiring funds from WV Development Office, Synthetic Fuel, Producing County Fund to Market and Communications Operating Fund (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)

## HOUSE CALENDAR

Saturday, March 7, 2020

60<sup>th</sup> Day

10:00 A. M.

### UNFINISHED BUSINESS

H. R. 3 - Amending the Rules of the House of Delegates, relating to remarks by members

#### THIRD READING

- S. B. 278 - Providing various methods to deal with defendant who becomes incompetent during trial (SHOTT) (REGULAR)
- Com. Sub. for S. B. 502 - Relating to methamphetamine criminal penalty (SHOTT) (REGULAR)
- S. B. 509 - Relating to custodial allocation actions independent of divorce (SHOTT) (REGULAR)
- Com. Sub. for S. B. 722 - Relating to special license plates for public and private nonprofit transit providers (HOWELL) (JULY 1, 2020) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING] [AMENDMENTS PENDING] [RIGHT TO AMEND]
- Com. Sub. for H. B. 2663 - Exempting buildings or structures utilized exclusively for agricultural purposes from the provisions of the State Building Code (HOWELL) (REGULAR)
- Com. Sub. for H. B. 4096 - Requiring candidates to live in the state or local election district for the office for which they are seeking (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4746 - Establishing a registry of persons with a communication disability (HOWELL) (REGULAR)
- Com. Sub. for H. B. 4905 - Ban-the-Box Act (SHOTT) (REGULAR)
- H. B. 4953 - Providing the PSC with authority to order the acquisition of failing utilities and a variety of tools to assist distressed and failing utilities (SHOTT) (REGULAR)
- H. B. 4966 - Relating generally to updating the North American Industry Classification System code references (CRISS) (REGULAR)
- H. B. 4970 - Relating to military service as a factor in certain insurance coverage rates (SHOTT) (REGULAR)

## SECOND READING

- S. B. 170 - Alleviating double taxation on foreign income at state level (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 625 - Creating one-day annual license to permit charitable auction of sealed rare, antique, or vintage liquor bottles (SHOTT) (REGULAR)
- Com. Sub. for S. B. 710 - Establishing pilot program to evaluate telemedicine health services (HILL) (REGULAR)
- Com. Sub. for S. B. 751 - Removing certain requirements of municipality annexing property within urban growth boundary (HOWELL) (REGULAR)
- H. J. R. 102 - Providing the West Virginia Legislature rulemaking oversight of the board of education (SHOTT)
- Com. Sub. for H. B. 4021 - Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 4059 - Increasing access to long acting reversible contraception (HILL) (REGULAR)
- H. B. 4455 - Permitting fees from the Central Abuse Registry to be used for costs relating to information technology support and infrastructure (HOUSEHOLDER) (REGULAR)
- Com. Sub. for H. B. 4613 - Allowing the Division of Highways use money in the Gas Field Highway Repair and Horizontal Drilling Waste Study Fund (HOUSEHOLDER) (REGULAR)
- Com. Sub. for H. B. 4690 - Relating to solid waste facilities (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4975 - Making a supplementary appropriation to the School Building Authority, Debt Service Fund (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 4976 - Making a supplementary appropriation to the School Building Authority (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- H. B. 4977 - Expiring funds to the balance of the Department of Arts, Culture and History, Division of Culture and History, Public Records and Preservation Revenue Account Fund (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- H. B. 4978 - Expiring funds to the balance of the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)

## **FIRST READING**

- Com. Sub. for H. B. 4485 - Reorganizing and redesignating the Department of Military Affairs and Public Safety as the Department of Homeland Security (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4651 - Clarifying the powers and duties of the Division of Highways in acquiring property for state road purposes (SHOTT) (REGULAR)
- H. B. 4884 - Relating to a charitable or public service organization must submit a certifying statement attesting to its status (HOWELL) (REGULAR)





# **WEST VIRGINIA HOUSE OF DELEGATES**

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**SATURDAY, MARCH 7, 2020**

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**HOUSE CONVENES AT 10:00 A.M.**

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**COMMITTEE ON RULES  
9:30 A.M. – BEHIND CHAMBER**





HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
Building 1, Room M-212  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0470