

**H. B. 4260**

(By Mr. Speaker, (Mr. Miley) and Delegate Armstead)

[By Request of the Executive]

[Introduced January 22, 2014 ; referred to the  
Committee on Government Organization.]

10 A BILL to repeal §5-1C-2, §5-1C-3, §5-1C-4, and §5-1C-5 of the Code  
11 of West Virginia, 1931, as amended; to repeal §5B-2-2 and  
12 §5B-2-3 of said code; to repeal §15-8-1, §15-8-2, §15-8-3,  
13 §15-8-4, §15-8-5, §15-8-6, §15-8-7, §15-8-8, §15-8-9,  
14 §15-8-10, §15-8-11, and §15-8-12 of said code; to repeal  
15 §16-5J-5 of said code; to repeal §16-5P-7 of said code; to  
16 repeal §16-29H-1, §16-29H-2, §16-29H-3, §16-29H-4, §16-29H-5,  
17 §16-29H-6, §16-29H-7, §16-29H-8, §16-29H-9, and §16-29H-10 of  
18 said code; to repeal §16-42-1, §16-42-2, §16-42-3, §16-42-4,  
19 §16-42-5, and §16-42-6 of said code; to repeal §18-2J-1,  
20 §18-2J-2, §18-2J-3, §18-2J-4, §18-2J-5, §18-2J-6, and §18-2J-7  
21 of said code; to repeal §18B-1C-3 of said code; to repeal  
22 §18B-14-11 of said code; to repeal §18B-16-6 of said code; to  
23 repeal §20-2B-2a of said code; to repeal §21-3A-10 of said  
24 code; to repeal §23-1-1a of said code; to repeal §29-12B-4 and

1 §29-12B-5 of said code; to repeal §29-12C-1 and §29-12C-2 of  
2 said code; to repeal §31-16-1, §31-16-2, §31-16-3, and  
3 §31-16-4 of said code; to repeal §33-16G-1, §33-16G-2,  
4 §33-16G-3, §33-16G-4, §33-16G-5, §33-16G-6, §33-16G-7,  
5 §33-16G-8 and §33-16G-9 of said code; to repeal §33-48-2 and  
6 §33-48-3 of said code; to repeal §47A-1-1, §47A-1-2, §47A-1-3  
7 and §47A-1-4 of said code; to repeal §55-15-1, §55-15-2,  
8 §55-15-3, §55-15-4, §55-15-5 and §55-15-6 of said code; to  
9 repeal §62-11E-1, §62-11E-2, and §62-11E-3 of said code; to  
10 amend and reenact §15-5-28 of said code; to amend and reenact  
11 §18A-3-2c of said code; and to amend and reenact §33-16D-16 of  
12 said code, all relating to eliminating unnecessary boards,  
13 councils, committees, panels, task forces and commissions;  
14 repealing the Science and Technology Advisory Council;  
15 repealing the Council for Community and Economic Development;  
16 repealing the Statewide Mutual Aid Committee; repealing the  
17 Sheriffs' Bureau; repealing the Clinical Laboratories Quality  
18 Assurance Advisory Board; repealing the Council on Aging;  
19 repealing the Governor's Office of Health Enhancement and  
20 Lifestyle Planning; repealing the Comprehensive Behavioral  
21 Health Commission; repealing the Governor's Advisory Council  
22 for Educational Technology; repealing the Principal Standards  
23 Advisory Council; repealing the West Virginia Consortium for  
24 Undergraduate Research and Engineering; repealing the

1 Governor's Commission on Graduate Study in Science,  
2 Technology, Engineering, and Mathematics; repealing the West  
3 Virginia Rural Health Advisory Panel; repealing the Ohio River  
4 Management Fund Advisory Board; repealing the Occupational  
5 Safety and Health Review Commission; repealing the Workers'  
6 Compensation Board of Managers; repealing the State Medical  
7 Malpractice Advisory Panel; repealing the Patient Injury  
8 Compensation Plan Study Board; repealing the Steel Advisory  
9 Commission; repealing the West Virginia Small Employer Group  
10 Health Benefit Plan Policy Advisory Committee; repealing the  
11 West Virginia Health Benefit Exchange Governing Board;  
12 repealing the West Virginia Health Insurance Plan Board;  
13 repealing the West Virginia Lending and Credit Rate Board;  
14 repealing the Alternative Dispute Resolution Commission; and  
15 repealing the Sexually Violent Predator Management Task Force.

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

17 That §5-1C-2, §5-1C-3, §5-1C-4 and §5-1C-5 of the Code of West  
18 Virginia, 1931, as amended, be repealed; that §5B-2-2 and §5B-2-3  
19 of said code be repealed; that §15-8-1, §15-8-2, §15-8-3, §15-8-4,  
20 §15-8-5, §15-8-6, §15-8-7, §15-8-8, §15-8-9, §15-8-10, §15-8-11 and  
21 §15-8-12 of said code be repealed; that §16-5J-5 of said code be  
22 repealed; that §16-5P-7 of said code be repealed; that §16-29H-1,  
23 §16-29H-2, §16-29H-3, §16-29H-4, §16-29H-5, §16-29H-6, §16-29H-7,  
24 §16-29H-8, §16-29H-9 and §16-29H-10 of said code be repealed; that

1 §16-42-1, §16-42-2, §16-42-3, §16-42-4, §16-42-5 and §16-42-6 of  
2 said code be repealed; that §18-2J-1, §18-2J-2, §18-2J-3, §18-2J-4,  
3 §18-2J-5, §18-2J-6, and §18-2J-7 of said code be repealed; that  
4 §18B-1C-3 of said code be repealed; that §18B-14-11 of said code be  
5 repealed; that §18B-16-6 of said code be repealed; that §20-2B-2a  
6 of said code be repealed; that §21-3A-10 of said code be repealed;  
7 that §23-1-1a of said code be repealed; that §29-12B-4 and  
8 §29-12B-5 of said code be repealed; that §29-12C-1 and §29-12C-2 of  
9 said code be repealed; that §31-16-1, §31-16-2, §31-16-3 and  
10 §31-16-4 of said code be repealed; that §33-16G-1, §33-16G-2,  
11 §33-16G-3, §33-16G-4, §33-16G-5, §33-16G-6, §33-16G-7, §33-16G-8  
12 and §33-16G-9 of said code be repealed; that §33-48-2 and §33-48-3  
13 of said code be repealed; that §47A-1-1, §47A-1-2, §47A-1-3 and  
14 §47A-1-4 of said code be repealed; that §55-15-1, §55-15-2,  
15 §55-15-3, §55-15-4, §55-15-5, and §55-15-6 of said code be  
16 repealed; and that §62-11E-1, §62-11E-2 and §62-11E-3 of said code  
17 be repealed; that §15-5-28 of said code be amended and reenacted;  
18 that §18A-3-2c of said code be amended and reenacted; and that  
19 §33-16D-16 of said code be amended and reenacted, all to read as  
20 follows:

21 **CHAPTER 15. PUBLIC SAFETY.**

22 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

23 **§15-5-28. Statewide mutual aid system.**

24 (a) The Legislature hereby finds that emergencies transcend

1 political jurisdictional boundaries and that intergovernmental  
2 coordination is essential for the protection of lives and property  
3 and for the best use of available assets, both public and private.  
4 The purpose of this section is to create a system of intrastate  
5 mutual aid between participating political subdivisions in the  
6 state. The system shall provide for mutual assistance among the  
7 participating political subdivisions in the prevention of, response  
8 to and recovery from any disaster that results in a formal state of  
9 emergency in a participating political subdivision, subject to that  
10 participating political subdivision's criteria for declaration.  
11 The system shall provide for mutual cooperation among the  
12 participating subdivisions in conducting disaster-related  
13 exercises, testing or other training activities outside actual  
14 declared emergency periods. This section provides no immunity,  
15 rights or privileges for any individual responding to a state of  
16 emergency that is not requested or authorized to respond by a  
17 participating political subdivision. Participating political  
18 subdivisions will be ensured, to the fullest extent possible,  
19 eligibility for state and federal disaster funding.

20 ~~(b) The Statewide Intrastate Mutual Aid Committee is hereby~~  
21 ~~created. The committee shall consist of eleven members from~~  
22 ~~various different public safety entities and other governmental~~  
23 ~~entities who shall be appointed by the Governor. The Director of~~  
24 ~~the Division of Homeland Security and Emergency Management, or his~~

~~1 or her designee, shall chair the committee. This committee shall  
2 be multidisciplinary and representative of emergency management and  
3 response disciplines as well as local government. It shall be the  
4 committee's responsibility to hold, at a minimum, annual meetings  
5 to review the progress and status of statewide mutual aid, assist  
6 in developing methods to track and evaluate activation of the  
7 system and to examine issues facing participating political  
8 subdivisions regarding the implementation of this legislation. The  
9 committee may prepare an annual report on the condition and  
10 effectiveness of mutual aid in the state, make recommendations for  
11 correcting any deficiencies and submit that report to the  
12 appropriate legislative committee or other governing body. Members  
13 of the committee shall serve a maximum two-year term.~~

14       ~~(e)~~ (b) Upon the enactment of this legislation, all political  
15 subdivisions within the state are members of the statewide mutual  
16 aid system: *Provided*, That a political subdivision within the  
17 state may elect not to participate or to withdraw from the system  
18 upon the enactment of an appropriate resolution by its governing  
19 body declaring that it elects not to participate in the statewide  
20 mutual aid system. A copy of any such resolution shall be provided  
21 to the Division of Homeland Security and Emergency Management.

22       ~~(d)~~ (c) This section does not preclude participating political  
23 subdivisions from entering into supplementary agreements with  
24 another political subdivision and does not affect any other

1 agreement to which a political subdivision may currently be a party  
2 to, or decide to be a party to.

3 ~~(e)~~ (d) "Emergency responder", as used in this article, shall  
4 mean anyone with special skills, qualifications, training,  
5 knowledge and experience in the public or private sectors that  
6 would be beneficial to a participating political subdivision in  
7 response to a locally declared emergency as defined in any  
8 applicable law or ordinance or authorized drill or exercises; and  
9 who is requested and authorized to respond. Under this definition,  
10 an emergency responder may be required to possess a license,  
11 certificate, permit or other official recognition for his or her  
12 expertise in a particular field or area of knowledge. An emergency  
13 responder could include, but is in no way limited to, the  
14 following: Law-enforcement officers, firefighters, emergency  
15 medical services personnel, physicians, nurses, other public health  
16 personnel, emergency management personnel, public works personnel,  
17 local emergency debris removal teams, those persons with  
18 specialized equipment operations skills or training or any other  
19 skills needed to provide aid in a declared emergency.

20 ~~(f)~~ (e) It shall be the responsibility of each participating  
21 political subdivision with jurisdiction over and responsibility for  
22 emergency management within that certain subdivision to do all of  
23 the following:

24 (1) Identify potential hazards that could affect the

1 participant using an identification system common to all  
2 participating jurisdictions.

3 (2) Conduct joint planning, intelligence sharing and threat  
4 assessment development with contiguous participating political  
5 subdivisions, and conduct joint training at least biennially.

6 (3) Identify and inventory the current services, equipment,  
7 supplies, personnel and other resources related to planning,  
8 prevention, mitigation, response and recovery activities of the  
9 participating political subdivision.

10 (4) Adopt and implement the National Incident Management  
11 System approved by the State of West Virginia.

12 ~~(g)~~ (f) A participating political subdivision may request  
13 assistance of other participating political subdivisions in  
14 preventing, mitigating, responding to and recovering from disasters  
15 that result in locally declared emergencies or in concert with  
16 authorized drills or exercises as allowed under this section.  
17 Requests for assistance shall be made to the Division of Homeland  
18 Security and Emergency Management through the designated county  
19 emergency management director by the chief executive officer of a  
20 participating political subdivision, or his or her designee for  
21 response. Requests may be verbal or in writing. Verbal requests  
22 will be followed up with a written request as soon as is practical  
23 or such number of days as the state, in its discretion, may  
24 dictate.



1       ~~(h)~~ (g) The obligation of a participating political  
2 subdivision to provide assistance in the prevention of, response to  
3 and recovery from a locally declared emergency or in authorized  
4 drills or exercises is subject to the following conditions:

5       (1) A participating political subdivision requesting  
6 assistance must have either declared a state of emergency in the  
7 manner outlined in this section or authorized drills and exercises;

8       (2) A responding participating political subdivision may  
9 withhold resources to the extent necessary to provide reasonable  
10 protection and services for its own jurisdiction;

11       (3) Emergency response personnel of a responding participating  
12 political subdivision shall continue under the command and control  
13 of their responding jurisdiction to include medical protocols,  
14 standard operating procedures and other protocols, but shall be  
15 under the operational control of the appropriate officials within  
16 the National Incident Management System of the participating  
17 political subdivision receiving the assistance; and

18       (4) Assets and equipment of a responding participating  
19 political subdivision shall continue under the control of the  
20 responding jurisdiction, but shall be under the operational control  
21 of the appropriate officials within the National Incident  
22 Management System of the participating political subdivision  
23 receiving the assistance.

24       ~~(i)~~ (h) If a person or entity holds a license, certificate or

1 other permit issued by a participating political subdivision or the  
2 state evidencing qualification in a professional, mechanical or  
3 other skill and the assistance of that person or entity is  
4 requested by a participating political subdivision, the person or  
5 entity shall be deemed to be licensed, certified or permitted in  
6 the political subdivision requesting assistance for the duration of  
7 the declared emergency or authorized drills or exercises and  
8 subject to any limitations and conditions the chief executive of  
9 the participating political subdivision receiving the assistance  
10 may prescribe by executive order or otherwise.

11 ~~(j)~~ (i) (1) Any requesting political subdivision shall  
12 reimburse the participating political subdivision rendering aid  
13 under this system, ~~and in accordance with procedures developed by~~  
14 ~~the Statewide Intrastate Mutual Aid Committee~~ provided the request  
15 for aid is authorized by the Division of Homeland Security and  
16 Emergency Management. A participating political subdivision  
17 providing assistance may determine to donate assets of any kind to  
18 a receiving participating political subdivision. ~~Requests for~~  
19 ~~reimbursement shall be in accordance with procedures developed by~~  
20 ~~the Statewide Intrastate Mutual Aid Committee.~~

21 (2) Should a dispute arise between parties to the system  
22 regarding reimbursement, involved parties will make every effort to  
23 resolve the dispute within thirty days of written notice of the  
24 dispute by the party asserting noncompliance. In the event that

1 the dispute is not resolved within ninety days of the notice of the  
2 claim, either party may request the dispute be solved through  
3 arbitration. Any arbitration under this provision shall be  
4 conducted under the commercial arbitration rules of the American  
5 Arbitration Association.

6 ~~(k) The Statewide Intrastate Mutual Aid Committee shall~~  
7 ~~develop comprehensive guidelines and procedures that address,~~  
8 ~~including, but not limited to, the following: Projected or~~  
9 ~~anticipated costs, checklists for requesting and providing~~  
10 ~~assistance, recordkeeping for all participating political~~  
11 ~~subdivisions, reimbursement procedures and other necessary~~  
12 ~~implementation elements along with the necessary forms for requests~~  
13 ~~and other records documenting deployment and return of assets.~~

14 ~~(l)~~ (j) Personnel of a participating political subdivision  
15 responding to or rendering assistance for a request who sustain  
16 injury or death in the course of, and arising out of, their  
17 employment are entitled to all applicable benefits normally  
18 available to personnel while performing their duties for their  
19 employer. Responders shall receive any additional state and  
20 federal benefits that may be available to them for line-of-duty  
21 deaths.

22 ~~(m)~~ (k) All activities performed under this section are deemed  
23 hereby to be governmental functions. For the purposes of  
24 liability, all persons responding under the operational control of

1 the requesting political subdivision are deemed to be employees of  
2 the requesting participating political subdivision.

3 ~~(n)~~ (1) Whenever the law-enforcement officials of any  
4 political subdivision are rendering outside aid pursuant their  
5 lawful authority, and with the approval of the Director of the West  
6 Virginia Division of Homeland Security and Emergency Management,  
7 and under the authority of a state of emergency as officially  
8 proclaimed by the Governor, such law-enforcement officials shall  
9 have the same authority, powers, duties, rights, privileges and  
10 immunities as if they were performing their law-enforcement duties  
11 in the political subdivisions in which they are normally employed.  
12 The authority vested in the law-enforcement official, in accordance  
13 with this section, shall vest upon reporting in person to the  
14 Emergency Management Agency official in charge and on duty at the  
15 county or city of destination assignment. The law-enforcement  
16 official shall act under the authority, supervision and control of  
17 the highest ranking law-enforcement official within the assigned  
18 outside jurisdiction. Law enforcement and powers of arrest  
19 authority will not attach to the law-enforcement official while in  
20 transit from his or her jurisdiction of origin en route to his or  
21 her assigned jurisdiction under intrastate mutual aid assistance.

22 **CHAPTER 18A. SCHOOL PERSONNEL.**

23 **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL**  
24 **DEVELOPMENT.**

1 **§18A-3-2c. Training through the Principals Academy.**

2 (a) *Principal training and professional development required.*

3 -- After the effective date of this section and subject to the  
4 provisions of subsection (c) of this section, every principal shall  
5 complete training and professional development through the  
6 Principals Academy as provided in subsection (b) of this section.

7 (b) *Principal training and professional development through*

8 *the academy.* -- The academy and the persons required to complete  
9 training and professional development through the academy shall  
10 adhere to the following guidelines:

11 (1) All persons assigned as a principal for the first time in  
12 a West Virginia school after July 1, 2002, shall complete  
13 specialized training and professional development for newly  
14 appointed principals through the academy within the first twelve  
15 months following assignment;

16 (2) All principals of schools which have been designated as  
17 seriously impaired, in accordance with section five, article two-e,  
18 chapter eighteen of this code, shall complete specialized training  
19 and professional development through the academy specifically  
20 designed to assist the principal to improve school performance  
21 commencing as soon as practicable following receipt of the  
22 designation;

23 (3) All principals who are subject to an improvement plan, in  
24 accordance with section twelve, article two of this chapter, shall

1 complete specialized training and professional development through  
2 the academy specifically designed for principals subject to an  
3 improvement plan. The specialized training and professional  
4 development shall be completed within twelve months from the date  
5 that the principal is first subject to the improvement plan;

6 (4) All principals who transfer to a school with a  
7 significantly different grade configuration shall complete  
8 specialized training and professional development for principals in  
9 schools with the grade configuration to which they transferred  
10 through the academy within the first twelve months following  
11 transfer; and

12 (5) All persons serving as school principals shall complete  
13 training and professional development through the academy designed  
14 to build the qualities, proficiencies and skills required of all  
15 principals as determined by the state board.

16 (c) *Academy and requirements to complete training and*  
17 *professional development subject to funding.* -- The requirement  
18 that principals complete training and professional development  
19 through the academy shall be subject to the availability of funds  
20 for the principals academy from legislative appropriation and from  
21 other sources. If these funds are insufficient to provide for the  
22 total cost of the training and professional development required by  
23 subsection (b) of this section, then the academy shall provide  
24 training and professional development for the persons described in

1 subdivisions (1) through (5), ~~of~~ subsection (b) according to the  
2 priority in which the subdivisions appear in that subsection. If  
3 such funds are insufficient to provide for the training and  
4 professional development of all the persons described in one or  
5 more of subdivisions (1) through (5), subsection (b) of this  
6 section, the academy is authorized to determine which persons  
7 described within the subdivision or subdivisions shall be admitted  
8 and which shall not be admitted: *Provided*, That the principals  
9 academy shall make every effort to ensure that all principals  
10 receive training and professional development through the academy  
11 at least once every six years effective July 1, 2002, and  
12 thereafter: *Provided, however*, That nothing in this section shall  
13 be construed to require any specific level of funding by the  
14 Legislature.

15 ~~(d) Principals standards advisory council. -- To assist the~~  
16 ~~state board in the performance of the duties described in~~  
17 ~~subsection (e) of this section, there is hereby created a~~  
18 ~~"Principals Standards Advisory Council", which shall consist of~~  
19 ~~nine persons, as follows: The executive director of the center for~~  
20 ~~professional development, who shall serve as the ex officio chair;~~  
21 ~~three principals, one from an elementary school and one from a~~  
22 ~~middle school or a junior high school selected by the West Virginia~~  
23 ~~association of elementary and middle school principals, and one~~  
24 ~~from a high school selected by the West Virginia association of~~

~~1 secondary school principals; one county school superintendent  
2 selected by the West Virginia association of school administrators;  
3 and two representatives from higher education who teach in  
4 principal preparation programs selected by the teacher education  
5 advisory council; and two citizen representatives who are  
6 knowledgeable on issues addressed in this section, appointed by the  
7 governor. Members of the principals standards advisory council who  
8 are public employees shall be granted release time from their  
9 employment for attending meetings of the council. Members may be  
10 reimbursed for reasonable and necessary expenses actually incurred  
11 in the performance of their official duties by the center for  
12 professional development. The terms of all members appointed to  
13 the principals standards advisory council under the prior enactment  
14 of this section shall terminate on the thirty-first day of August,  
15 two thousand two. The principals standards advisory council as  
16 amended on the effective date of this section shall become  
17 effective on the first day of September, two thousand two.~~

18       ~~(e)~~ (d) *Establishment of standards.* -- On or before October 1,  
19 1996, the state board shall approve and promulgate rules regarding  
20 the minimum qualities, proficiencies and skills that will be  
21 required of principals after January 1, 1997. The state board  
22 shall promulgate and may from time to time amend such rules. ~~after~~  
23 ~~consultation with the principals standards advisory council created~~  
24 ~~in subsection (d) of this section~~ The rules promulgated by the



1 state board shall address at least the following:

2       (1) Staff relations, including, but not limited to, the  
3 development and use of skills necessary to make a positive use of  
4 faculty senates, manage faculty and staff with courtesy and mutual  
5 respect, coach and motivate employees, and build consensus as a  
6 means of management;

7       (2) School community leadership qualities, including, but not  
8 limited to, the ability to organize and leverage community  
9 initiative, communicate effectively, work effectively with local  
10 school improvement councils, manage change, resolve conflict and  
11 reflect the highest personal values;

12       (3) Educational proficiencies, including, but not limited to,  
13 knowledge of curriculum, instructional techniques, student learning  
14 styles, student assessment criteria, school personnel performance,  
15 evaluation skills and family issues; and

16       (4) Administrative skills, including, but not limited to,  
17 organizational, fiscal, public policy and total quality management  
18 skills and techniques.

19       ~~(f)~~ (e) *Waivers*. -- Any person desiring to be relieved of the  
20 requirements of all or any part of this section may apply in  
21 writing to the state board for a waiver. Upon a showing of  
22 reasonable cause why relief should be granted, the state board may  
23 grant a waiver, upon such terms and conditions as the state board  
24 shall determine proper, as to all or any part of this section.

1       ~~(g)~~ (f) *Failure to comply.* -- Any person who fails or refuses  
2 to complete training and professional development through the  
3 academy, as required by the provisions of this section, and who  
4 fails to obtain a waiver, as described in subsection (f) of this  
5 section, shall be ineligible to be employed as, or serve in the  
6 capacity of, a principal.

7       ~~(h)~~ (g) *Tracking of requirement.* -- On or before January 1,  
8 1997, the state board shall establish a system to track the  
9 progress of each person required to complete training through the  
10 academy and shall regularly advise such persons of their progress.

11       ~~(i)~~ (h) *Payment of reasonable and necessary expenses and*  
12 *stipends.* -- The Center for Professional Development shall  
13 reimburse persons attending the academy for reasonable and  
14 necessary expenses. A person may not be required to complete  
15 training and professional development through the Principals  
16 Academy before September 15 and after June 1 of the school year.  
17 The Center for Professional Development shall utilize alternative  
18 methods of instructional delivery and scheduling, including  
19 electronic delivery, as considered appropriate to minimize the  
20 amount of time principals completing training and professional  
21 development through the academy are required to be away from their  
22 school duties. Nothing in this section shall be construed to  
23 require any specific level of funding by the Legislature.

24 **CHAPTER 33. INSURANCE.**

1 **ARTICLE 16D. MARKETING AND RATE PRACTICES.**

2 **§33-16D-16. Authorization of uninsured small group health benefit**  
3 **plans.**

4 (a) Upon filing with and approval by the commissioner, any  
5 carrier licensed pursuant to this chapter which accesses a health  
6 care provider network to deliver services may offer a health  
7 benefit plan and rates associated with the plan to a small employer  
8 subject to the conditions of this section and subject to the  
9 provisions of this article. The health benefit plan is subject to  
10 the following conditions:

11 (1) The health benefit plan may be offered by the carrier only  
12 to small employers which have not had a health benefit plan  
13 covering their employees for at least six consecutive months before  
14 the effective date of this section. After the passage of six  
15 months from the effective date of this section, the health benefit  
16 plan under this section may be offered by carriers only to small  
17 employers which have not had a health benefit plan covering their  
18 employees for twelve consecutive months;

19 (2) If a small employer covered by a health benefit plan  
20 offered pursuant to this section no longer meets the definition of  
21 a small employer as a result of an increase in eligible employees,  
22 that employer shall remain covered by the health benefit plan until  
23 the next annual renewal date;

24 (3) The small employer shall pay at least fifty percent of its

1 employees' premium amount for individual employee coverage;

2       (4) The commissioner shall promulgate emergency rules under  
3 the provisions of article three, chapter twenty-nine-a of this code  
4 on or before September 1, 2004, to place additional restrictions  
5 upon the eligibility requirements for health benefit plans  
6 authorized by this section in order to prevent manipulation of  
7 eligibility criteria by small employers and otherwise implement the  
8 provisions of this section;

9       (5) Carriers must offer the health benefit plans issued  
10 pursuant to this section through one of their existing networks of  
11 health care providers;

12       (A) The West Virginia Health Care Authority shall, on or  
13 before May 1, 2004, and each year thereafter, by regular mail,  
14 provide a written notice to all known in-state health care  
15 providers that:

16       (i) Informs the health care provider regarding the provisions  
17 of this section; and

18       (ii) Notifies the health care provider that if the health care  
19 provider does not give written refusal to the West Virginia Health  
20 Care Authority within thirty days from receipt of the notice or the  
21 health care provider has not previously filed a written notice of  
22 refusal to participate, the health care provider must participate  
23 with and accept the products and provider reimbursements authorized  
24 pursuant to this section;

1           (B) The carrier's network of health care providers, as well as  
2 any health care provider which provides health care goods or  
3 services to beneficiaries of any departments or divisions of the  
4 state, as identified in article twenty-nine-d, chapter sixteen of  
5 this code, shall accept the health care provider reimbursement  
6 rates set pursuant to this section unless the health care provider  
7 gives written refusal to the West Virginia Health Care Authority  
8 between May 1 and June 1 that the provider will not participate in  
9 this program for the next calendar year. Notwithstanding any  
10 provision of this code to the contrary, health care providers may  
11 not be mandated to participate in this program except under the  
12 opt-out provisions of subdivision (5), subsection (a) of this  
13 section and therefore the health care provider shall annually have  
14 the ability to file with the West Virginia Health Care Authority  
15 written notice that the health care provider will not participate  
16 with products issued pursuant to this section. Once a health care  
17 provider has filed a notice of refusal with the West Virginia  
18 Health Care Authority, the notice shall remain effective until  
19 rescinded by the provider and the provider shall not be required to  
20 renew the notice each year;

21           (C) The West Virginia Health Care Authority is responsible for  
22 receiving the responses, if any, from the health care providers  
23 that have elected not to participate and for providing a list to  
24 the commissioner of those health care providers that have elected

1 not to participate;

2 (D) Those health care providers that do not file a notice of  
3 refusal shall be considered to have accepted participation in this  
4 program and to accept Public Employees Insurance Agency health care  
5 provider reimbursement rates for their services as set by this  
6 section;

7 (E) Health care provider reimbursement rates used by the  
8 carrier for a health benefit plan offered pursuant to this section  
9 shall have no effect on provider rates for other products offered  
10 by the carrier and most-favored-nation clauses do not apply to the  
11 rates;

12 (6) With respect to the health benefit plans authorized by  
13 this section, the carrier shall reimburse network health care  
14 providers at the same health care provider reimbursement rates in  
15 effect for the managed care and health maintenance organization  
16 plans offered by the West Virginia Public Employees Insurance  
17 Agency. Beginning in the year 2004, and in each year thereafter,  
18 the health care provider reimbursement rates set under this section  
19 may not be lowered from the level of the rates in effect on the  
20 July 1 of that year for the managed care and health maintenance  
21 plans offered by the Public Employees Insurance Agency. While it  
22 is the intent of this paragraph to govern rates for plans offered  
23 pursuant to this section for annual periods, this paragraph in no  
24 way prevents the Public Employees Insurance Agency from making

1 provider reimbursement rate adjustments to Public Employees  
2 Insurance Agency plans during the course of each year. If there is  
3 a dispute regarding the determination of appropriate rates pursuant  
4 to this section, the Director of the Public Employees Insurance  
5 Agency shall, in his or her sole discretion, specify the  
6 appropriate rate to be applied;

7 (A) The health care provider reimbursement rates as authorized  
8 by this section shall be accepted by the health care provider as  
9 payment in full for services or products provided to a person  
10 covered by a product authorized by this section;

11 (B) Except for the health care provider rates authorized under  
12 this section, a carrier's payment methodology, including copayments  
13 and deductibles and other conditions of coverage, remains  
14 unaffected by this section;

15 (C) The provisions of this section do not require the Public  
16 Employees Insurance Agency to give carriers access to the  
17 purchasing networks of the Public Employees Insurance Agency. The  
18 Public Employees Insurance Agency may enter into agreements with  
19 carriers offering health benefit plans under this section to permit  
20 the carrier, at its election, to participate in drug purchasing  
21 arrangements pursuant to article sixteen-c, chapter five of this  
22 code, including the multistate drug purchasing program. This  
23 paragraph provides authorization of the agreements pursuant to  
24 section four of said article;

1           (7) Carriers may not underwrite products authorized by this  
2 section more strictly than other small group policies governed by  
3 this article;

4           (8) With respect to health benefit plans authorized by this  
5 section, a carrier shall have a minimum anticipated loss ratio of  
6 seventy-seven percent to be eligible to make a rate increase  
7 request after the first year of providing a health benefit plan  
8 under this section;

9           (9) Products authorized under this section are exempt from the  
10 premium taxes assessed under sections fourteen and fourteen-a,  
11 article three of this chapter;

12           (10) A carrier may elect to nonrenew any health benefit plan  
13 to an eligible employer if, at any time, the carrier determines, by  
14 applying the same network criteria which it applies to other small  
15 employer health benefit plans, that it no longer has an adequate  
16 network of health care providers accessible for that eligible small  
17 employer. If the carrier makes a determination that an adequate  
18 network does not exist, the carrier has no obligation to obtain  
19 additional health care providers to establish an adequate network;

20           (11) Upon thirty days' advance notice to the commissioner, a  
21 carrier may, at any time, elect to nonrenew all health benefit  
22 plans issued pursuant to this section. If a carrier nonrenews all  
23 its business issued pursuant to this section for any reason other  
24 than the adequacy of the provider network, the carrier may not



1 offer this health benefit plan to any eligible small employer for  
2 a period of at least two years after the last eligible small  
3 employer is nonrenewed; and

4 (12) The Insurance Commissioner may not approve any health  
5 benefit plan issued pursuant to this section until it has obtained  
6 any necessary federal governmental authorizations or waivers. The  
7 Insurance Commissioner shall apply for and obtain all necessary  
8 federal authorizations or waivers.

9 (b) Health benefit plans authorized by this section are not  
10 intended to violate the prohibition set out in subsection (a),  
11 section four of this article.

12 ~~(c) The commissioner shall appoint a policy advisory committee~~  
13 ~~to provide advice to the commissioner regarding providing health~~  
14 ~~insurance to uninsureds and to monitor the effectiveness of this~~  
15 ~~section. The committee shall contain members the commissioner~~  
16 ~~considers appropriate, but shall have members representing at least~~  
17 ~~the following interest groups: Labor, hospital providers, physician~~  
18 ~~providers, private business, local government, insurance carriers~~  
19 ~~and the uninsured.~~

20 ~~(d)~~ (c) Carriers offering health benefit plans pursuant to  
21 this section shall annually or before December 1 of each year  
22 report in a form acceptable to the commissioner the number of  
23 health benefit plans written by the carrier and the number of  
24 individuals covered under the health benefit plans.

1       ~~(e)~~ (d) To the extent that provisions of this section differ  
2 from those contained elsewhere in this chapter, the provisions of  
3 this section control.

NOTE: This bill eliminates boards, councils, tasks forces, and committees that are no longer necessary, including the Science and Technology Advisory Council; Council for Community and Economic Development; Statewide Mutual Aid Committee; Sheriffs' Bureau; Clinical Laboratories Quality Assurance Advisory Board; Council on Aging; Governor's Office of Health Enhancement and Lifestyle Planning; Comprehensive Behavioral Health Commission; Governor's Advisory Council for Educational Technology; Principal Standards Advisory Council; West Virginia Consortium for Undergraduate Research and Engineering; Governor's Commission on Graduate Study in Science, Technology, Engineering, and Mathematics; West Virginia Rural Health Advisory Panel; Ohio River Management Fund Advisory Board; Occupational Safety and Health Review Commission; Workers' Compensation Board of Managers; State Medical Malpractice Advisory Panel; Patient Injury Compensation Plan Study Board; Steel Advisory Commission; West Virginia Small Employer Group Health Benefit Plan Policy Advisory Committee; West Virginia Health Benefit Exchange Governing Board; West Virginia Health Insurance Plan Board; West Virginia Lending and Credit Rate Board; Alternative Dispute Resolution Commission; and Sexually Violent Predator Management Task Force.

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