

SB 94

WEST VIRGINIA LEGISLATURE FILED

2020 REGULAR SESSION

2020 FEB -3 P 1:00

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**Enrolled**  
**Committee Substitute**  
**for**  
**Senate Bill 94**

SENATORS TRUMP, WELD, AZINGER, BALDWIN, BEACH,  
CLEMENTS, CLINE, HARDESTY, JEFFRIES, LINDSAY,  
MAYNARD, PITSENBARGER, ROMANO, RUCKER, SMITH,  
TAKUBO, WOELFEL, HAMILTON, STOLLINGS, IHLENFELD,  
AND SYPOLT, *original sponsors*

[Passed January 24, 2020; in effect from passage]

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1 AN ACT to amend and reenact §3-3-1, §3-3-2, §3-3-2b, §3-3-4, §3-3-5, and §3-3-6 of the Code  
2 of West Virginia, 1931, as amended; and to amend said code by adding thereto a new  
3 section, designated §3-3-1a, all relating generally to absentee voting; clarifying that voters  
4 with disabilities prevented from voting in person may vote by mail-in absentee ballot;  
5 providing that voters with physical disabilities may vote by electronic absentee ballot;  
6 clarifying that certain overseas military members and citizens may vote by electronic  
7 absentee ballot; defining terms; providing that a voter with a physical disability may  
8 electronically submit an application to vote absentee; establishing that a voter may be on  
9 the special absentee voting list while the voter has a physical disability; providing that the  
10 information collected in the application to be placed on the special absentee voting list  
11 include whether a voter with a physical disability requests an electronic absentee ballot;  
12 clarifying that a voter with a physical disability can receive assistance to vote in certain  
13 circumstances; establishing requirements and deadlines for transmission, submission,  
14 and acceptance of electronic absentee ballots; and updating obsolete terms.

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

**ARTICLE 3. VOTING BY ABSENTEES.**

**§3-3-1. Persons eligible to vote absentee ballots.**

1 (a) All registered and other qualified voters of the county may vote an absentee ballot  
2 during the period of early voting in person.

3 (b) Registered voters and other qualified voters in the county are authorized to vote an  
4 absentee ballot by mail in the following circumstances:

5 (1) Any voter who is confined to a specific location and prevented from voting in person  
6 throughout the period of voting in person because of:

7 (A) Disability, illness, injury, or other medical reason;

8 (B) Physical disability or immobility due to extreme advanced age; or

9 (C) Incarceration or home detention: *Provided*, That the underlying conviction is not for a  
10 crime which is a felony or a violation of §3-9-12, §3-9-13, or §3-9-16 of this code involving bribery  
11 in an election;

12 (2) Any voter who is absent from the county throughout the period and available hours for  
13 voting in person because of:

14 (A) Personal or business travel;

15 (B) Attendance at a college, university, or other place of education or training; or

16 (C) Employment which because of hours worked and distance from the county seat make  
17 voting in person impossible;

18 (3) Any voter absent from the county throughout the period and available hours for voting  
19 in person and who is an absent uniformed services voter or overseas voter, as defined by 42  
20 U.S.C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986,  
21 including members of the uniformed services on active duty, members of the merchant marine,  
22 spouses and dependents of those members on active duty, and persons who reside outside the  
23 United States and are qualified to vote in the last place in which the person was domiciled before  
24 leaving the United States;

25 (4) Any voter who is required to dwell temporarily outside the county and is absent from  
26 the county throughout the time for voting in person because of:

27 (A) Serving as an elected or appointed federal or state officer; or

28 (B) Serving in any other documented employment assignment of specific duration of four  
29 years or less;

30 (5) Any voter for whom the designated area for absentee voting within the county  
31 courthouse or annex of the courthouse and the voter's assigned polling place are inaccessible  
32 because of his or her physical disability; and

33 (6) Any voter who is participating in the Address Confidentiality Program as established  
34 by §48-28A-103 of this code.

35 (c) Registered voters and other qualified voters in the county are authorized to vote an  
36 electronic absentee ballot in the following circumstances:

- 37 (1) The voter has a physical disability, as defined in §3-3-1a of this code; or  
38 (2) The voter is absent from the county throughout the period and available hours for  
39 voting in person and is an absent uniformed services voter or overseas voter, as defined by 42  
40 U.S.C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986,  
41 including members of the uniformed services on active duty, members of the merchant marine,  
42 spouses and dependents of those members on active duty, and persons who reside outside the  
43 United States and are qualified to vote in the last place in which the person was domiciled before  
44 leaving the United States.

45 (d) Registered voters and other qualified voters in the county may, in the following  
46 circumstances, vote an emergency absentee ballot, subject to the availability of the services as  
47 provided in this article:

- 48 (1) Any voter who is confined or expects to be confined in a hospital or other duly licensed  
49 health care facility within the county of residence or other authorized area, as provided in this  
50 article, on the day of the election;  
51 (2) Any voter who resides in a nursing home within the county of residence and would be  
52 otherwise unable to vote in person, providing the county commission has authorized the services  
53 if the voter has resided in the nursing home for a period of less than 30 days;  
54 (3) Any voter who becomes confined, on or after the seventh day preceding an election,  
55 to a specific location within the county because of illness, injury, physical disability, immobility due  
56 to advanced age, or another medical reason: *Provided*, That the county clerk may require a written  
57 confirmation by a licensed physician, physician's assistant, or advanced practice registered nurse  
58 that the voter meets the criteria of this subdivision before permitting such voter to vote an  
59 emergency absentee ballot; and

60 (4) Any voter who is working as a replacement poll worker and is assigned to a precinct  
61 out of his or her voting district, if the assignment was made after the period for voting an absentee  
62 ballot in person has expired.

**§3-3-1a. Definitions.**

1 For the purposes of this article, the following terms have the following definitions:

2 (1) "Disability" means a physical or mental impairment that substantially limits one or more  
3 major life activities.

4 (2) "Physical disability" means a physical impairment that substantially limits one or more  
5 major life activities and renders a person unable to vote in person, at the polls, without assistance.

**§3-3-2. Authority to conduct absentee voting; absentee voting application; form.**

1 (a) Absentee voting is to be supervised and conducted by the proper official for the political  
2 division in which the election is held, in conjunction with the ballot commissioners appointed from  
3 each political party, as follows:

4 (1) For any election held throughout the county, within a political subdivision or territory  
5 other than a municipality, or within a municipality when the municipal election is conducted in  
6 conjunction with a county election, the clerk of the county commission; or

7 (2) The municipal recorder or other officer authorized by charter or ordinance provisions  
8 to conduct absentee voting, for any election held entirely within the municipality, or in the case of  
9 annexation elections, within the area affected. The terms "clerk" or "clerk of the county  
10 commission" or "official designated to supervise and conduct absentee voting" used elsewhere in  
11 this article means municipal recorder or other officer in the case of municipal elections.

12 (b) A person authorized and desiring to vote a mail-in absentee ballot or an electronic  
13 absentee ballot in any primary, general, or special election is to make application in the proper  
14 form to the proper official as follows:

15 (1) The completed application is to be on a form prescribed by the Secretary of State and  
16 is to contain the name, date of birth, and political affiliation of the voter, residence address within

17 the county, the address to which the ballot is to be mailed, the authorized reason, if any, for which  
18 the absentee ballot is requested and, if the reason is illness or hospitalization, the name and  
19 telephone number of the attending physician, the signature of the voter to a declaration made  
20 under the penalties for false swearing as provided in §3-3-9 of this code that the statements and  
21 declarations contained in the application are true, any additional information which the voter is  
22 required to supply, any affidavit which may be required, and an indication as to whether it is an  
23 application for voting in person, by mail, or electronically;

24 (2) For any person authorized to vote an absentee ballot under the provisions of 42 U.S.C.  
25 §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, the completed  
26 application may be on the federal postcard application for absentee ballot form issued under  
27 authority of that act, submitted by mail or electronically; and

28 (3) For any voter with a physical disability, the completed application may be submitted by  
29 mail or electronically, in a form prescribed by the Secretary of State;

30 (4) For any person unable to obtain the official form for absentee balloting at a reasonable  
31 time before the deadline by which an application for an absentee ballot is to be received by the  
32 proper official, the completed application may be in a form set out by the voter, containing all  
33 information that would otherwise be required on the appropriate application and the signature of  
34 the voter requesting the ballot; or

35 (5) For any person authorized to vote an absentee ballot who is participating in the  
36 Address Confidentiality Program as established by §48-28A-103 of this code, application may be  
37 made to the program manager within the office of the Secretary of State to vote a mail-in absentee  
38 ballot. The program manager will notify the designated county contact to coordinate the  
39 application and the provision of an absentee ballot to the program participant.

**§3-3-2b. Special absentee voting list.**

1 (a) Any person who is registered and otherwise qualified to vote and who is physically  
2 disabled and unable to vote in person at the polls in an election may apply to the official

3 designated to supervise and conduct absentee voting for placement on the special absentee  
4 voting list.

5 (b) Any person who is registered and otherwise qualified to vote and who is participating  
6 in the Address Confidentiality Program, as established by §48-28A-103 of this code, may apply  
7 to the program manager within the office of the Secretary of State for placement on the special  
8 absentee voting list. The program manager will notify the designated county contact to coordinate  
9 the provision of an absentee ballot to the program participant.

10 (c) The application is to be on a form prescribed by the Secretary of State which is to  
11 include:

12 (1) The voter's name and signature;

13 (2) The voter's residence address, unless the applicant is a participant in the Address  
14 Confidentiality Program as established by §48-28A-103 of this code;

15 (3) (A) A statement that the voter has a physical disability and would be unable to vote in  
16 person at the polls in any election, a description of the nature of that disability, and a statement  
17 signed by a physician to that effect; or

18 (B) A statement that the voter is a program participant in the Address Confidentiality  
19 Program; and

20 (4) If the voter has a physical disability, whether the voter requests a mail-in absentee  
21 ballot or an electronic absentee ballot.

22 (d) Upon receipt of a properly completed application, the official designated to supervise  
23 and conduct absentee voting shall enter the name on the special absentee voting list which is to  
24 be maintained in a secure and permanent record. The person's name will remain active on the  
25 list until: (1) The person requests in writing that his or her name be removed; (2) the person is no  
26 longer a resident of the county, is purged from the voter registration books, or otherwise becomes  
27 ineligible to vote; (3) a ballot mailed to the address provided on the application is returned  
28 undeliverable by the United States Postal Service; (4) the person no longer has a physical



29 disability; (5) the person dies; or (6) in the case of an Address Confidentiality Program participant,  
30 the person withdraws or is removed from that program.

31 (e) The official designated to supervise and conduct absentee voting shall, not later than  
32 46 days before each election:

33 (1) Deliver an absentee ballot by mail to each voter active on the special absentee voting  
34 list due to a physical disability who requested a mail-in absentee ballot on the application; and

35 (2) Electronically transmit an absentee ballot to each voter on the special absentee voting  
36 list due to a physical disability who requested an electronic absentee ballot on the application.

37 (f) The Address Confidentiality Program manager shall, in coordination with the  
38 designated county contact, mail to each person on the special absentee voting list due to  
39 participation in the Address Confidentiality Program an absentee ballot by mail not later than 46  
40 days before each election.

**§3-3-4. Assistance to voter in voting an absentee ballot by personal appearance; penalties.**

1 (a) Any registered voter who requires assistance to vote by reason of blindness, physical  
2 disability, advanced age, or inability to read and write may be given assistance by a person of the  
3 voter's choice: *Provided*, That the assistance may not be given by the voter's present or former  
4 employer or agent of that employer, by the officer or agent of a labor union of which the voter is  
5 a past or present member, or by a candidate on the ballot.

6 (b) Any voter who requests assistance in voting an absentee ballot but who is determined  
7 by the official designated to supervise and conduct absentee voting not to be qualified for  
8 assistance under the provisions of this section and §3-1-34 of this code may vote a provisional  
9 absentee ballot with the assistance of any person authorized to render assistance pursuant to  
10 this section. The official designated to supervise and conduct absentee voting shall, in this case,  
11 challenge the absentee ballot on the basis of his or her determination that the voter is not qualified  
12 for assistance.

13 (c) Any one or more of the election commissioners or poll clerks in the precinct to which  
14 an absentee ballot has been sent may challenge the ballot on the grounds that the voter received  
15 assistance in voting the ballot when in his or their opinion: (1) The person who received the  
16 assistance in voting the absentee ballot did not require assistance; or (2) the person who provided  
17 the assistance in voting did not make an affidavit as required by this section. The election  
18 commissioner or poll clerk or commissioners or poll clerks making a challenge shall enter the  
19 challenge and reason for the challenge on the form and in the manner prescribed or authorized  
20 by this article.

21 (d) Before entering the voting booth or compartment, the person who intends to provide a  
22 voter assistance in voting by personal appearance shall make an affidavit, the form of which is to  
23 be prescribed by the Secretary of State, that he or she will not in any manner request, seek to  
24 persuade, or induce the voter to vote any particular ticket or for any particular candidate or for or  
25 against any public question; that he or she will not keep or make any memorandum or entry of  
26 anything occurring within the voting booth or compartment; and that he or she will not, directly or  
27 indirectly, reveal to any person the name of any candidate voted for by the voter, which ticket the  
28 voter voted, how the voter voted on any public question, or anything occurring within the voting  
29 booth, compartment, or voting machine booth, except when required, pursuant to law, in a judicial  
30 proceeding.

31 (e) In accordance with instructions issued by the Secretary of State, the official designated  
32 to supervise and conduct absentee voting shall complete a form entitled "List of Assisted Voters",  
33 which list is to be divided into two parts, as follows:

34 (1) Part A is to be entitled "Unchallenged Assisted Voters"; and Part B is to be entitled  
35 "Challenged Assisted Voters".

36 (2) Under Part A, the official designated to supervise and conduct absentee voting shall  
37 enter the name of each voter receiving unchallenged assistance in voting an absentee ballot, the  
38 address of the voter assisted, the nature of the disability which qualified the voter for assistance

39 in voting an absentee ballot, the name of the person providing the voter with assistance in voting  
40 an absentee ballot, the fact that the person rendering the assistance in voting made and  
41 subscribed the affidavit required by this section, and the signature of the official designated to  
42 supervise and conduct absentee voting, certifying to the fact that he or she had determined that  
43 the voter who received assistance in voting an absentee ballot was qualified to receive the  
44 assistance under the provisions of this section.

45 (3) Under Part B, the official designated to supervise and conduct absentee voting shall  
46 enter the name of each voter receiving challenged assistance in voting, the address of the voter  
47 receiving challenged assistance, the reason for the challenge, and the name of the person  
48 providing the challenged voter with assistance in voting. At the close of the period provided for  
49 voting an absentee ballot by personal appearance, the official designated to supervise and  
50 conduct absentee voting shall make and subscribe to an oath on the list that the list is correct in  
51 all particulars.

52 (4) If no voter has been assisted in voting an absentee ballot as provided in this section,  
53 the official designated to supervise and conduct absentee voting shall make and subscribe to an  
54 oath of that fact on the list.

55 (5) The "List of Assisted Voters" is to be available for public inspection in the office of the  
56 official designated to supervise and conduct absentee voting during regular business hours  
57 throughout the period provided for voting an absentee ballot by personal appearance and, unless  
58 otherwise directed by the Secretary of State, the official shall transmit the list, together with the  
59 affidavits, applications, and absentee ballots, to the precincts on election day.

60 (f) Following the election, the affidavits required by this section from persons providing  
61 assistance in voting, together with the "List of Assisted Voters", are to be returned by the election  
62 commissioners to the clerk of the county commission, along with the election supplies, records,  
63 and returns. The clerk shall make the oaths and the "List of Assisted Voters" available for public

64 inspection and shall preserve the oaths and list for 22 months or, if under order of the court, until  
65 their destruction or other disposition is authorized or directed by the court.

66 (g) Any person making an affidavit required under the provisions of this section who  
67 knowingly swears falsely in the affidavit or any person who counsels or advises, aids, or abets  
68 another in the commission of false swearing under this section is guilty of a misdemeanor and,  
69 upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for a period of not  
70 more than one year, or both fined and confined.

71 (h) Any person who provides a voter assistance in voting an absentee ballot in the office  
72 of the official designated to supervise and conduct absentee voting who is not qualified or  
73 permitted by this section to provide assistance is guilty of a misdemeanor and, upon conviction  
74 thereof, shall be fined not more than \$1,000 or confined in jail for a period of not more than one  
75 year, or both fined and confined.

76 (i) Any official designated to supervise and conduct absentee voting, election  
77 commissioner, or poll clerk who authorizes or allows a voter to receive or to have received  
78 unchallenged assistance in voting an absentee ballot when the voter is known to the official  
79 designated to supervise and conduct absentee voting or election commissioner or poll clerk not  
80 to be or have been authorized by the provisions of this section to receive or to have received  
81 assistance in voting is guilty of a misdemeanor and, upon conviction thereof, shall be fined not  
82 more than \$1,000 or confined in jail for a period of not more than one year, or both fined and  
83 confined.

**§3-3-5. Voting an absentee ballot by mail or electronically; penalties.**

1 (a) Upon oral or written request, the official designated to supervise and conduct absentee  
2 voting shall provide to any voter of the county, in person, by mail, or electronically, the appropriate  
3 application for voting absentee as provided in this article. The voter shall complete and sign the  
4 application in his or her own handwriting or, if the voter is unable to complete the application  
5 because of illiteracy or physical disability:

6 (1) The person assisting the voter and witnessing the mark of the voter shall sign his or  
7 her name in the space provided; or

8 (2) The person, if eligible to vote by electronic absentee ballot due to physical disability,  
9 may complete and verify the application by available electronic means prescribed by the  
10 Secretary of State.

11 (b) Completed applications for voting an absentee ballot by mail are to be accepted when  
12 received by the official designated to supervise and conduct absentee voting in person, by mail,  
13 or electronically within the following times:

14 (1) For persons eligible to vote an absentee ballot under the provisions of §3-3-1(b)(3) of  
15 this code, relating to absent uniformed services and overseas voters, not earlier than January 1  
16 of an election year or 84 days preceding the election, whichever is earlier, and not later than the  
17 sixth day preceding the election, which application is to, upon the voter's request, be accepted as  
18 an application for the ballots for all elections in the calendar year; and

19 (2) For all other persons eligible to vote an absentee ballot by mail or electronically, not  
20 earlier than January 1 of an election year or 84 days preceding the election, whichever is earlier,  
21 and not later than the sixth day preceding the election.

22 (c) Upon acceptance of a completed application, the official designated to supervise and  
23 conduct absentee voting shall determine whether the following requirements have been met:

24 (1) The application has been completed as required by law;

25 (2) The applicant is duly registered to vote in the precinct of his or her residence and, in a  
26 primary election, is qualified to vote the ballot of the political party requested;

27 (3) The applicant is authorized for the reasons given in the application to vote an absentee  
28 ballot by mail or electronically;

29 (4) The address to which a ballot is to be mailed is an address outside the county if the  
30 voter is applying to vote by mail under the provisions of §3-3-1(b)(2)(A), §3-3-1(b)(2)(B), §3-3-  
31 1(b)(3), or §3-3-1(b)(4) of this code;

32 (5) The applicant is not making his or her first vote after having registered by postcard  
33 registration or, if the applicant is making his or her first vote after having registered by postcard  
34 registration, the applicant is subject to one of the exceptions provided in §3-2-10 of this code; and

35 (6) No regular and repeated pattern of applications for an absentee ballot by mail for the  
36 reason of being out of the county during the entire period of voting in person exists to suggest  
37 that the applicant is no longer a resident of the county.

38 (d) (1) If the official designated to supervise and conduct absentee voting determines that  
39 the required conditions have been met for voting an absentee ballot by mail, two representatives  
40 that are registered to vote with different political party affiliations shall sign their names in the  
41 places indicated on the back of the official ballot. If the official designated to supervise and conduct  
42 absentee voting determines the required conditions have not been met or has evidence that any  
43 of the information contained in the application is not true, the official shall give notice to the voter  
44 that the voter's absentee ballot will be challenged as provided in this article and shall enter that  
45 challenge.

46 (2) If the official designated to supervise and conduct electronic voting determines that a  
47 voter is eligible to submit an electronic ballot because the voter is an absent uniformed services  
48 voter or overseas voter or a person with a physical disability, the official designated to supervise  
49 absentee voting shall cause the absentee ballot to be transmitted electronically in the manner  
50 required for the electronic ballot marking tool or other electronic means.

51 (e)(1) Beginning on the 46th day prior to election day, within one day after the official  
52 designated to supervise and conduct absentee voting has both the completed application and the  
53 ballot, the official shall provide to the voter at the address given on the application, or by the  
54 appropriate electronic delivery method, the following items as required and as prescribed by the  
55 Secretary of State:

56 (A) One of each type of official absentee ballot the voter is eligible to vote, prepared  
57 according to law;

58 (B) For persons voting absentee ballot by mail, one envelope, unsealed, which may have  
59 no marks except the designation "Absent Voter's Ballot Envelope No. 1" and printed instructions  
60 to the voter;

61 (C) For persons voting absentee ballot by mail, one postage paid envelope, unsealed,  
62 designated "Absent Voter's Ballot Envelope No. 2";

63 (D) Instructions for voting absentee by mail or electronically;

64 (E) For electronic systems or transmission, an electronic means by which eligible voters  
65 with physical disabilities may mark the absentee ballot without assistance, as prescribed by the  
66 Secretary of State; and

67 (F) Notice that a list of write-in candidates is available upon request.

68 (2) If the voter is an absent uniformed services voter or overseas voter, as defined by 42  
69 U.S.C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, the  
70 official designated to supervise and conduct absentee voting shall transmit the ballot to the voter  
71 via mail, or electronically, as requested by the voter. If the voter does not designate a preference  
72 for transmittal, the clerk may select either method of transmittal for the ballot. If the ballot is  
73 transmitted electronically pursuant to this subdivision, the official designated to supervise and  
74 conduct absentee voting shall also transmit electronically:

75 (A) A waiver of privacy form, to be promulgated by the Secretary of State;

76 (B) Instructions for voting absentee by mail or electronically;

77 (C) Notice that a list of write-in candidates is available upon request; and

78 (D) A statement of the voter affirming the voter's current name and address and whether  
79 or not he or she received assistance in voting.

80 (f) The voter shall mark the ballot alone: *Provided*, That the voter may have assistance in  
81 voting according to the provisions of §3-3-6 of this code.

82 (1) After the voter has voted the ballot or ballots to be returned by mail, the voter shall:

83 (A) Place the ballot or ballots in envelope no. 1 and seal that envelope;

84 (B) Place the sealed envelope no. 1 in envelope no. 2 and seal that envelope;

85 (C) Complete and sign the forms on envelope no. 2; and

86 (D) Return that envelope to the official designated to supervise and conduct absentee

87 voting.

88 (2) If the ballot was transmitted electronically as provided in subdivisions (1) or (2),

89 subsection (e) of this section, the voter shall return the ballot electronically, in the manner

90 prescribed by the Secretary of State, or the voter may return the ballot by United States mail,

91 along with a signed privacy waiver form.

92 (g) Except as provided in subsection (h) of this section, absentee ballots returned by

93 United States mail or other express shipping service are to be accepted if:

94 (1) The ballot is received by the official designated to supervise and conduct absentee

95 voting no later than the day after the election; or

96 (2) The ballot bears a postmark of the United States Postal Service dated no later than

97 election day and the ballot is received by the official designated to supervise and conduct

98 absentee voting no later than the hour at which the board of canvassers convenes to begin the

99 canvass.

100 (h) Absentee ballots received through the United States mail from persons eligible to vote

101 an absentee ballot under the provisions of §3-3-1(b)(3) of this code, relating to uniform services

102 and overseas voters, are to be accepted if the ballot is received by the official designated to

103 supervise and conduct absentee voting no later than the hour at which the board of canvassers

104 convenes to begin the canvass.

105 (i) Voted ballots submitted electronically are to be accepted if the ballot is received by the

106 official designated to supervise and conduct absentee voting no later than the close of polls on

107 election day: *Provided*, That for uniform services and overseas voters, the Secretary of State's

108 office shall enter into an agreement with the Federal Voting Assistance Program of the United

109 States Department of Defense to transmit the ballots to the county clerks at a time when two



110 individuals of opposite political parties are available to process the received ballots. For persons  
111 casting absentee ballots electronically due to physical disability, the county clerk shall designate  
112 two individuals of opposite political parties to process the received ballots in the manner required  
113 by the particular electronic ballot marking tool or other electronic means of returning the electronic  
114 absentee ballot.

115 (j) Ballots received after the proper time which cannot be accepted are to be placed  
116 unopened in an envelope marked for the purpose and kept secure for 22 months following the  
117 election, after which time they are to be destroyed without being opened.

118 (k) Absentee ballots which are hand delivered are to be accepted if they are received by  
119 the official designated to supervise and conduct absentee voting no later than the day preceding  
120 the election: *Provided*, That no person may hand deliver more than two absentee ballots in any  
121 election and any person hand delivering an absentee ballot is required to certify that he or she  
122 has not examined or altered the ballot. Any person who makes a false certification violates the  
123 provisions of §3-9-1 *et seq.* of this code and is subject to those provisions.

124 (l) Upon receipt of the sealed envelope, the official designated to supervise and conduct  
125 absentee voting shall:

126 (1) Enter onto the envelope any other required information;

127 (2) Enter the challenge, if any, to the ballot;

128 (3) Enter the required information into the permanent record of persons applying for and  
129 voting an absentee ballot in person; and

130 (4) Place the sealed envelope into a ballot box that is secured by two locks with a key to  
131 one lock kept by the president of the county commission and a key to the other lock kept by the  
132 county clerk.

133 (m) Upon receipt of a ballot submitted electronically pursuant to subdivision (2), subsection  
134 (f) of this section, the official designated to supervise and conduct absentee voting shall place the  
135 ballot in an envelope marked "Absentee by Electronic Means" with the completed waiver when

136 appropriate: *Provided*, That no ballots are to be processed without the presence of two individuals  
137 of opposite political parties.

138 (n) All ballots received electronically prior to the close of the polls on election day are to  
139 be tabulated in the manner prescribed for tabulating absentee ballots submitted by mail to the  
140 extent that those procedures are appropriate for the applicable voting system. The clerk of the  
141 county commission shall keep a record of absentee ballots sent and received electronically.

**§3-3-6. Assistance to voter in voting an absentee ballot by mail.**

1 (a) No voter shall receive any assistance in voting an absentee ballot by mail unless he or  
2 she shall make a declaration at the time he or she makes application for an absentee ballot that  
3 because of blindness, physical disability, advanced age, or inability to read or write he or she  
4 requires assistance in voting an absentee ballot.

5 (b) Upon receipt of an absentee ballot by mail, the voter who requires assistance in voting  
6 such ballot and who has indicated he or she requires such assistance and the reasons therefor  
7 on the application may select any eligible person to assist him or her in voting.

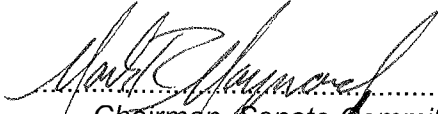
8 (c) The person providing assistance in voting an absentee ballot by mail shall make an  
9 affidavit on a form as may be prescribed by the Secretary of State, that he or she will not in any  
10 manner request, seek to persuade, or induce the voter to vote any particular ticket or for any  
11 particular candidate or for or against any public question; that he or she will not keep or make any  
12 memorandum or entry of anything occurring within the voting booth or compartment; and that he  
13 or she will not, directly or indirectly, reveal to any person the name of any candidate voted for by  
14 the voter, which ticket the voter voted, or how the voter voted on any public question, or anything  
15 occurring within the voting booth, compartment, or voting machine booth, except when required,  
16 pursuant to law, in a judicial proceeding.

17 (d) The term "assistance in voting", as used in this section, means assistance in physically  
18 marking the official absentee ballot for a voter or reading or directing the voter's attention to any  
19 part of the official absentee ballot.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

FILED

2020 FEB -3 P 1:00

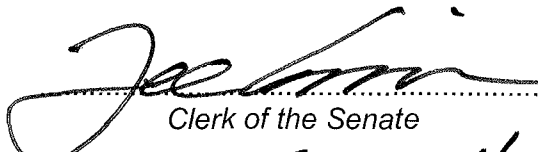
  
.....  
Chairman, Senate Committee


  
.....  
Chairman, House Committee

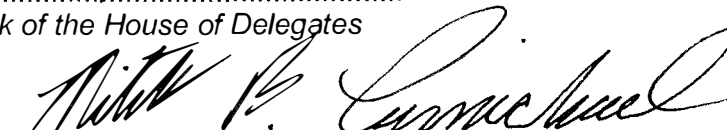
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

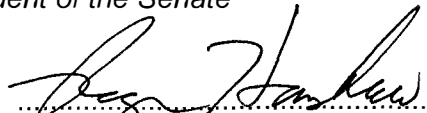
Originated in the Senate.

In effect from passage.

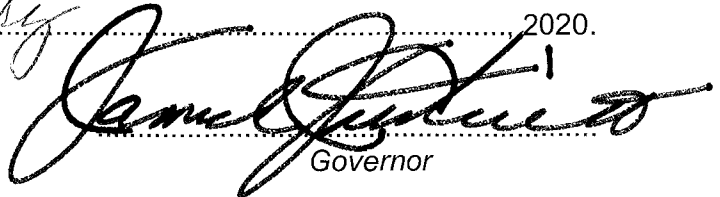
  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker of the House of Delegates

The within *is approved* ..... this the *3rd* .....  
Day of *February* ..... 2020.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

JAN 28 2020

Time 2:14 pm