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THIRTY-EIGHTH DAY

Friday, March 19, 2021

THIRTY-EIGHTH DAY

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

The House of Delegates met at 11:30 a.m., and 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 18, 2021, 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, Com. Sub. for H. B. 2630, on Third reading, Special Calendar, was transferred to the House Calendar; and Com. Sub. for 2959, on Second reading, Special Calendar, was transferred to the House Calendar.

Committee Reports

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 517, Relating to sunset provisions of legislative rules,

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

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

Your Committee on Government Organization has had under consideration:

H. B. 2427, Authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to behavioral health centers licensure,

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

Com. Sub. for H. B. 2427 - "A Bill to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Health and Human Resources 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 Department of Health and Human Resources to promulgate a legislative rule relating to behavioral health centers licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to hospital licensure; authorizing the Department of Health

and Human Resources to promulgate a legislative rule relating to nursing home licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food establishments; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to lead abatement licensing; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to client rights at state-operated mental health facilities; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to delegation of medication administration and health maintenance tasks to approved medication assistive personnel; not authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public health standards for businesses remaining open during the Covid-19 outbreak; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to diabetes self-management education; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia clearance for access, registry, and employment screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to a recovery residence certification and accreditation program; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child placing agencies licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults and vulnerable and transitioning youth group homes and programs in West Virginia; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the procedure to contest the substantiation of child abuse or neglect; and authorizing the Health Care Authority to promulgate a legislative rule relating to exemption from certificate of need,”

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on Education and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Ellington, Higginbotham, Mazzocchi, Toney and Tully:

H. B. 2029 - “A Bill to amend and reenact §18A-3-1 and §18A-3-2a of the Code of West Virginia, 1931, as amended, related to teacher preparation clinical experience programs; changing name of teacher in residence program to clinical teacher of record program; providing for resident teacher clinical experience programs and leader induction programs under general direction and control of state board; and changing Teacher in Residence Permit to Clinical Teacher of Record Permit.”

On motion for leave a bill was introduced (Originating in the Committee on Education and reported with the recommendation that it do pass, but that it first be referred to the Committee on Finance), which was read by its title, as follows:

By Delegates Ellington, Smith, Graves, J. Pack, Toney, Mazzocchi, Higginbotham and Tully:

H. B. 2030 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18B-16A-1, §18B-16A-2, §18B-16A-3, and §18B-16A-4, all relating to a establishing a nursing program at Concord University; providing for funding; and setting forth accountability and reporting requirements.”

The Speaker referred the bill to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 3177, Removing expired, outdated, inoperative and antiquated provisions and report requirements in education,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 3009, Relating to the publication of county board financial statements,

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

Com. Sub. for H. B. 3009 - "A Bill to amend and reenact §18-9-3a of the Code of West Virginia, 1931, as amended, relating to the publication of county board financial statements; providing option for county board to publish statement on its website for certain minimum time as alternative to Class I-0 legal advertisement; and updating terms,"

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2336, Establishing the Katherine Johnson Academy,

H. B. 2778, Create the Education Tax Credit,

And,

H. B. 2806, To allow parents to retain their child without losing a year of sports eligibility,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended, but that they first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bills (H. B. 2336, H. B. 2778 and H. B. 2806) were each referred to the Committee on Finance.

Delegate Zatezalo, Chair of the Committee on Workforce Development, submitted the following report, which was received:

Your Committee on Workforce Development has had under consideration:

H. B. 3089, Make utility workers essential employees during a state of emergency,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 3089) was referred to the Committee on the Judiciary.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 12, Charles E. Jarvis Memorial Bridge,

H. C. R. 17, James C. Vickers Silver Star Highway,

H. C. R. 19, "U.S. Army Pvt. Dallis H. Johnson WWII Memorial Bridge",

H. C. R. 25, William Edward Friese Memorial Bridge,

H. C. R. 26, Victor Yoak Memorial Bridge,

H. C. R. 27, Harvey Lemasters Memorial Bridge,

H. C. R. 33, Norman A. and Carrie G. Silver Memorial Bridge,

And,

H. C. R. 38, "U.S. Marine Corps Sergeant David Andrew Green Memorial Bridge.",

And reports the same back with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 12, H. C. R. 17, H. C. R. 19, H. C. R. 25, H. C. R. 26, H. C. R. 27, H. C. R. 33 and H. C. R. 38) were each referred to the Committee on Rules.

On motion for leave, a bill was introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Summers, J. Pack and Rohrbach:

H. B. 2028 - "A Bill to amend and reenact §60A-9-2 of the Code of West Virginia, 1931, as amended, relating to exempting a veterinarian from the requirements of controlled substance monitoring."

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

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

H. B. 3079, Relating to exempting recovery residences from certain standards,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 2982, Relating to the Second Chances at Life Act of 2021,

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

Com. Sub. for H. B. 2982 - "A Bill to amend and reenact §16-2I-1, §16-2I-2, and §16-2I-3 of the Code of West Virginia, 1931, as amended, all relating to the Second Chance at Life Act; requiring that information about the process of chemical abortion be provided to a woman prior to prescribing pharmaceuticals for, or administering, a chemical abortion except in certain emergency circumstances; updating definitions; specifying that the woman be informed of the possibility of reversal of a chemical abortion if undertaken within a critical time period; dictating minimum standards for printed materials; and requiring documentation of the procedures required hereby,"

And,

H. B. 3215, Amending the requirements to become an elected prosecutor,

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

Com. Sub. for H. B. 3215 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-4-1a, relating to the requirements of a prosecuting attorney,"

With the recommendation that the committee substitutes each do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 3045, Relating to firefighter disability claims,

H. B. 3107, Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders,

And,

H. B. 3164, Relating generally to kidnapping,

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

Delegate D. Jeffries, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 18th day of March, 2021, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 2011, Eliminating any time requirements for part time personnel to work during a working year.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 19, 2021, he approved **Com. Sub. for H. B. 2001**.

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 18, 2021, he approved **Com. Sub. for S. B. 270** and **Com. Sub. for S. B. 280**.

The Clerk announced that **Com. Sub. for S. B. 11** became law without the signature of the Governor.

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. 2009, Relating to limitations on the use of wages and agency shop fees by employers and labor organizations for political activities.

Delegate Summers 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:

"CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 5. FISCAL AFFAIRS.

§7-5-25. Prohibition against certain deductions and assignments of earnings from compensation of county officers or employees.

No deductions or assignments of earnings shall be allowed for union, labor organization, or club dues or fees from the compensation of county officers and employees.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 5. ELECTION, APPOINTMENT, QUALIFICATION AND COMPENSATION OF OFFICERS; GENERAL PROVISIONS RELATING TO OFFICERS AND EMPLOYEES; ELECTIONS AND PETITIONS GENERALLY; CONFLICT OF INTEREST.

§8-5-12. Compensation of officers and employees.

(a) Notwithstanding any charter provision to the contrary, the governing body of every municipality shall by ordinance fix or cause to be fixed the salary or compensation of every municipal officer and employee: *Provided*, That the salary of any officer shall not be increased or diminished during his or her term.

(b) The governing body of every municipality shall have plenary power and authority to provide by ordinance for the allowance of time off of officers and employees with pay for vacations and illness

and for personnel management incentives, as additional consideration for their services and employment.

(c) No deductions or assignments of earnings shall be allowed for union, labor organization, or club dues or fees from the compensation of officers or employees covered by this section: *Provided*, That this subsection shall not apply to municipal employees covered by a collective bargaining agreement with a municipality which is in effect on July 1, 2021.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES, AND DEDUCTIONS.

§12-3-13b. Voluntary deductions by State Auditor from salaries of employees ~~to pay association dues or fees and to pay supplemental health and life insurance premiums; voluntary other deductions.~~

(a) Any officer or employee of the State of West Virginia may authorize that a voluntary deduction from his or her net wages be made ~~for the payment of membership dues or fees to an employee association. Voluntary deductions may also be authorized by an officer or employee~~ for any supplemental health and life insurance premium, subject to prior approval by the Auditor. Such deductions shall be authorized on a form provided by the Auditor of the State of West Virginia and shall state:

(a) ~~(1)~~ The identity of the employee;

~~(b) the~~ ~~(2)~~ The amount and frequency of such deductions; and

~~(c) the~~ ~~(3)~~ The identity and address of the ~~association or~~ insurance company to which such dues shall be paid.

(b) Upon execution of such authorization and its receipt by the office of the Auditor, such deductions shall be made in the manner specified on the form and remitted to the designated ~~association or~~ insurance company on the tenth day of each month: *Provided*, That the Auditor may approve and authorize voluntary other deductions, as approved and authorized by the Auditor, may defined under §21-5-1 of this code, to be made in accordance with rules proposed by the Auditor pursuant to §29A-3-1 *et seq.* of this code: *Provided, however*, That deductions shall be made at least twice monthly. Deduction authorizations may be revoked at any time 30 days prior to the date on which the deduction is regularly made and on a form to be provided by the office of the State Auditor: *Provided further*, ~~That nothing in this section shall interfere with or remove any existing arrangement for dues deduction between an employer or any political subdivision of the state and its employees.~~

(c) No deductions or assignments of earnings shall be allowed for union, labor organization, or club dues or fees from the compensation of officers and employees covered by this section.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-9. Payment of teachers and other employees; withholdings.

Teachers and all other employees whose salaries or wages are payable out of the school current fund shall be paid for their services by orders duly signed by the president and secretary of the board in accordance with the following provisions:

(1) Notwithstanding any other provisions of this chapter and §18-1-1 *et seq.* of this code, the number of pays to be made during the school year to the various classes of employees shall be determined by the board: *Provided*, That the sum of such pays for any employee does not exceed the equivalent of an annual salary based upon 12 calendar months.

(2) In the event a teacher or other employee is not paid the full salary or wage earned in the fiscal year in which the work is performed, the unpaid amount may be paid during July and August of the following fiscal year.

(3) Adjustments for time loss due to absence may be made in the next paycheck following such time loss.

(4) The county board may withhold the pay of any teacher or employee until he or she has made the reports required by the board or the state superintendent.

(5) Accompanying the pay of each employee shall be an accounting of gross earnings, all withholdings, and the dollar value of all benefits provided by the state on behalf of the employee.

(6) No deductions or assignments of earnings shall be allowed for union, labor organization, or club dues or fees from the compensation of teachers and other employees covered by this section.

CHAPTER 21. LABOR.

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-1. Definitions.

As used in this article:

(a) The term 'firm' includes any partnership, association, joint-stock company, trust, division of a corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, or officer thereof, employing any person.

(b) The term 'employee' or 'employees' includes any person suffered or permitted to work by a person, firm, or corporation, except those classified as an independent contractor pursuant to §21-51-4 of this code.

(c) The term 'wages' means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission, or other basis of calculation. As used in §21-5-4, §21-5-5, §21-5-8a, §21-5-10, and §21-5-12 of this code, the term 'wages' shall also include then accrued fringe benefits capable of calculation and payable directly to an employee: *Provided*, That nothing herein contained shall require fringe benefits to be calculated contrary to any agreement between an employer and his or her employees which does not contradict the provisions of this article.

(d) The term 'commissioner' means Commissioner of Labor or his or her designated representative.

(e) The term 'railroad company' includes any firm or corporation engaged primarily in the business of transportation by rail.

(f) The term 'special agreement' means an arrangement filed with and approved by the commissioner whereby a person, firm, or corporation is permitted upon a compelling showing of good

cause to establish regular paydays less frequently than once in every two weeks: *Provided*, That in no event shall the employee be paid in full less frequently than once each calendar month on a regularly established schedule.

(g) The term 'deductions' includes amounts required by law to be withheld, and amounts authorized for union, labor organization, or club dues or fees, pension plans, payroll savings plans, credit unions, charities, and ~~hospitalization and medical~~ any form of insurance offered by an employer: *Provided*, That for a public employee, other than a municipal employee covered by a collective bargaining agreement with a municipality which is in effect on July 1, 2021, the term 'deductions' shall not include any amount for union, labor organization, or club dues or fees.

(h) The term 'officer' shall include officers or agents in the management of a corporation or firm who knowingly permit the corporation or firm to violate the provisions of this article.

(i) The term 'wages due' shall include at least all wages earned up to and including the twelfth day immediately preceding the regular payday.

(j) The term 'construction' means the furnishing of work in the fulfillment of a contract for the construction, alteration, decoration, painting, or improvement of a new or existing building, structure, roadway, or pipeline, or any part thereof, or for the alteration, improvement, or development of real property: *Provided*, That construction performed for the owner or lessee of a single family dwelling or a family farming enterprise is excluded.

(k) The term 'minerals' means clay, coal, flagstone, gravel, limestone, manganese, sand, sandstone, shale, iron ore, and any other metallurgical ore.

(l) The term 'fringe benefits' means any benefit provided an employee or group of employees by an employer, or which is required by law, and includes regular vacation, graduated vacation, floating vacation, holidays, sick leave, personal leave, production incentive bonuses, sickness and accident benefits, and benefits relating to medical and pension coverage.

(m) The term 'employer' means any person, firm, or corporation employing any employee.

(n) The term 'doing business in this state' means having employees actively engaged in the intended principal activity of the person, firm, or corporation in West Virginia.

(o) The term 'assignment', as used in §21-5-3 of this code, shall have the same meaning as the term 'assignment of earnings' set forth in §46A-2-116(2)(b) of this code.

§21-5-3. Payment of wages by employers other than railroads; assignments of wages.

(a) Every person, firm, or corporation doing business in this state, except railroad companies as provided in §21-5-1 of this code, shall settle with its employees at least twice every month and with no more than 19 days between settlements, unless otherwise provided by special agreement, and pay them the wages due, less authorized deductions and authorized wage assignments, for their work or services.

(b) Payment required in subsection (a) of this section shall be made:

(1) In lawful money of the United States;

(2) By cash order as described and required in §21-5-4 of this code;

(3) By deposit or electronic transfer of immediately available funds into an employee's payroll card account in a federally insured depository institution. The term 'payroll card account' means an account in a federally insured depository institution that is directly or indirectly established through an employer and to which electronic fund transfers of the employee's wages, salary, commissions, or other compensation are made on a recurring basis, whether the account is operated or managed by the employer, a third person payroll processor, a depository institution, or another person. 'Payroll card' means a card, code, or combination thereof or other means of access to an employee's payroll card account, by which the employee may initiate electronic fund transfers or use a payroll card to make purchases or payments. Payment of employee compensation by means of a payroll card must be agreed upon in writing by both the person, firm, or corporation paying the compensation and the person being compensated; or

(4) By any method of depositing immediately available funds in an employee's demand or time account in a bank, credit union, or savings and loan institution that may be agreed upon in writing between the employee and such person, firm, or corporation, which agreement shall specifically identify the employee, the financial institution, the type of account, and the account number: *Provided, That* nothing herein contained shall be construed in a manner to require any person, firm, or corporation to pay employees by depositing funds in a financial institution.

(c) If, at any time of payment, any employee is absent from his or her regular place of labor and does not receive his or her wages through a duly authorized representative, he or she is entitled to payment at any time thereafter upon demand upon the proper paymaster at the place where his or her wages are usually paid and where the next pay is due.

(d) Nothing herein contained may affect the right of an employee to assign part of his or her claim against his or her employer except as in subsection (e) of this section.

(e) No assignment of or order for future wages may be valid for a period exceeding one year from the date of the assignment or order. An assignment or order shall be ~~acknowledged by the party making the same before a notary public or other officer authorized to take acknowledgments, and any order or assignment in writing and~~ shall specify thereon the total amount due and collectible by virtue of the same and, unless otherwise provided for in subsection (f) of this section, three-fourths of the periodical earnings or wages of the assignor are all times exempt from such assignment or order and no assignment or order is valid which does not so state upon its face: *Provided, That* no such order or assignment is valid unless the written acceptance of the employer of the assignor to the making thereof is endorsed thereon: *Provided, however, That* nothing herein contained may be construed as affecting the right of a private employer and its employees to agree between themselves as to deductions to be made from the payroll of employees.

(f) If an employee of the state has been overpaid wages, including incremental salary increases pursuant to §5-5-2 of this code, an employee may voluntarily authorize a written assignment or order for future wages to the state to repay the overpayment in an amount not to exceed three-fourths of his or her periodical earnings or wages.

(g) Nothing in this chapter shall be construed to interfere with the right of an employee to join, become a member of, contribute to, donate to, or pay dues or fees to a union, labor organization, or club.

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-116. Assignment of earnings.

(1) The maximum part of the aggregate disposable earnings of an individual for any workweek which may be subjected to any one or more assignments of earnings for the payment of a debt or debts arising from one or more consumer credit sales, consumer leases, or consumer loans, or one or more sales as defined in §46A-6-102 of this code, may not exceed 25 percent of his or her disposable earnings for that week.

(2) As used in this section:

(a) 'Disposable earnings' means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld; and

(b) 'Assignment of earnings' includes all forms of assignments, deductions, transfers, or sales of earnings to another, either as payment or as security, and whether stated to be revocable or nonrevocable, and includes any deductions authorized under the provisions of §21-5-3 of this code, except deductions for union, labor organization, or club dues or fees, pension plans, payroll savings plans, charities, stock purchase plans, ~~and hospitalization and medical~~ any form of insurance offered by an employer.

(3) Any assignment of earnings and any deduction under ~~said~~ §21-5-3 of this code shall be revocable by the employee at will at any time, notwithstanding any provision to the contrary.

(4) The priority of multiple assignments of earnings shall be according to the date and time of each such assignment."

And,

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

Com. Sub. for H. B. 2009 – "A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §7-5-25; to amend and reenact §8-5-12 of said code; to amend and reenact §12-3-13b of said code; to amend and reenact §18A-4-9 of said code; to amend and reenact §21-5-1 and §21-5-3 of said code; and to amend and reenact §46A-2-116 of said code, all relating generally to deductions from wages; defining terms under the Wage Payment and Collection Act; including union, labor organization, or club dues or fees as deductions; expanding types of insurance considered as deductions; prohibiting deduction of union, labor organization, or club dues or fees from wages of public employees; providing an exception for certain municipal employees; incorporating definition of 'assignment of earnings' from Consumer Credit and Protection Act into Wage Payment and Collection Act; replacing notarization requirement for assignments or orders for future wages with requirement that such assignments or orders be in writing; protecting right of private employers and their employees to agree between themselves as to payroll deductions; protecting right of employees to participate in unions, labor organizations, and clubs; excluding union, labor organization, or club dues or fees from definition of 'assignment of earnings' in the Consumer Credit Protection Act; expanding types of insurance excluded from assignments; prohibiting deductions and assignments of earnings for union, labor organization, or club dues or fees from the compensation of county officers and employees; prohibiting deductions and assignments of earnings for union, labor organization, or club dues or fees from the compensation of certain municipal officers or employees; eliminating voluntary deductions from net wages of state officers and employees for payment of membership dues or fees to employee organizations; prohibiting deductions and assignments of earnings for union, labor organization, or club dues or fees from the compensation of state officers and employees; and prohibiting deductions and assignments of earnings for union, labor organization, or club dues or fees from the compensation of teachers and other school employees."

On the motion to concur in the Senate amendments, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 210**), and there were—yeas 54, nays 44, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barach, Barrett, Bates, Boggs, Booth, Brown, Cooper, Criss, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Gearheart, Griffith, Hansen, Hornbuckle, J. Jeffries, Lovejoy, Maynard, McGeehan, Miller, Paynter, Pethtel, Pushkin, Queen, Reynolds, Rohrbach, Rowe, Skaff, Statler, Storch, Thompson, Toney, Walker, G. Ward, Westfall, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the motion to concur in the amendment of the bill by the Senate prevailed.

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. 211**), and there were—yeas 55, nays 43, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barach, Barrett, Bates, Boggs, Booth, Brown, Cooper, Criss, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Graves, Griffith, Hansen, Hornbuckle, J. Jeffries, Lovejoy, Maynard, McGeehan, Miller, Paynter, Pethtel, Pushkin, Reynolds, Rohrbach, Rowe, Skaff, Statler, Storch, Thompson, Toney, Walker, G. Ward, Westfall, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Ellington and Kessinger.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2009) 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. 2263, Update the regulation of pharmacy benefit managers.

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:

“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.

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

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

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

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

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

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

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

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

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

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

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

care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

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

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

(ii) Severe food protein-induced enterocolitis syndrome;

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

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

(B) The coverage required by §5-16-9(b)(7)(A) of this code shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

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

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

(c) The group life and accidental death insurance herein provided shall be in the amount of \$10,000 for every employee. The amount of the group life and accidental death insurance to which an employee would otherwise be entitled shall be reduced to \$5,000 upon such employee attaining age 65.

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

(e) The provisions of §5A-3-1 *et seq.* of this code, relating to the Division of Purchasing of the Department of Finance and Administration, shall not apply to any contracts for any insurance coverage or professional services authorized to be executed under the provisions of this article. Before entering into any contract for any insurance coverage, as authorized in this article, the director shall invite competent bids from all qualified and licensed insurance companies or carriers, who may wish to offer plans for the insurance coverage desired: *Provided*, That the director shall negotiate and contract directly with healthcare providers and other entities, organizations and vendors in order to secure competitive premiums, prices, and other financial advantages. The director shall deal directly with insurers or healthcare providers and other entities, organizations, and vendors in presenting specifications and receiving quotations for bid purposes. No commission or finder's fee, or any combination thereof, shall be paid to any individual or agent; but this shall not preclude an underwriting insurance company or companies, at their own expense, from appointing a licensed resident agent, within this state, to service the companies' contracts awarded under the provisions of this article. Commissions reasonably related to actual service rendered for the agent or agents may

be paid by the underwriting company or companies: *Provided, however,* That in no event shall payment be made to any agent or agents when no actual services are rendered or performed. The director shall award the contract or contracts on a competitive basis. In awarding the contract or contracts the director shall take into account the experience of the offering agency, corporation, insurance company, or service organization in the group hospital and surgical insurance field, group major medical insurance field, group prescription drug field, and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the director may employ the services of impartial, professional insurance analysts or actuaries or both. Any contract executed by the director with a selected carrier shall be a contract to govern all eligible employees subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier from soliciting employees covered hereunder to purchase additional hospital and surgical, major medical or life and accidental death insurance coverage.

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

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

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

(i) The director shall provide by contract or contracts entered into under the provisions of this article the cost for coverage of children's immunization services from birth through age 16 years to provide immunization against the following illnesses: Diphtheria, polio, mumps, measles, rubella, tetanus, hepatitis-b, hemophilia influenzae-b, and whooping cough. Additional immunizations may be required by the Commissioner of the Bureau for Public Health for public health purposes. Any contract entered into to cover these services shall require that all costs associated with immunization, including the cost of the vaccine, if incurred by the healthcare provider, and all costs of vaccine administration be exempt from any deductible, per visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other healthcare services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

(j) The director shall include language in all contracts for pharmacy benefits management, as defined by §33-51-3 of this code, requiring the pharmacy benefit manager to report quarterly to the agency ~~for all pharmacy claims the amount paid to the pharmacy provider per claim, including, but not limited to~~ the following:

(1) The overall total amount charged to the agency for all claims processed by the pharmacy benefit manager during the quarter;

(2) The overall total amount of reimbursements paid to pharmacy providers during the quarter;

(3) The overall total number of claims in which the pharmacy benefits manager reimbursed a pharmacy provider for less than the amount charged to the agency for all claims processed by the pharmacy benefit manager during the quarter; and

(4) For all pharmacy claims, the total amount paid to the pharmacy provider per claim, including, but not limited to, the following:

- ~~(1) (A)~~ The cost of drug reimbursement;
- ~~(2) (B)~~ Dispensing fees;
- ~~(3) (C)~~ Copayments; and
- ~~(4) (D)~~ The amount charged to the agency for each claim by the pharmacy benefit manager.

In the event there is a difference between ~~these amounts for any claim~~ the amount for any pharmacy claim paid to the pharmacy provider and the amount reimbursed to the agency, the pharmacy benefit manager shall report an itemization of all administrative fees, rebates, or processing charges associated with the claim. All data and information provided by the pharmacy benefit manager shall be kept secure, and notwithstanding any other provision of this code to the contrary, the agency shall maintain the confidentiality of the proprietary information and not share or disclose the proprietary information contained in the report or data collected with persons outside the agency. All data and information provided by the pharmacy benefit manager shall be considered proprietary and confidential and exempt from disclosure under the West Virginia Freedom of Information Act pursuant to §29B-1-4(a)(1) of this code. Only those agency employees involved in collecting, securing, and analyzing the data for the purpose of preparing the report provided for herein shall have access to the proprietary data. The director shall ~~using aggregated, non-proprietary data only, report at least quarterly to the Joint Committee on Government and Finance on the implementation of this subsection and its impact on program expenditures~~ provide a quarterly report to the Joint Committee on Government and Finance and the Joint Committee on Health detailing the information required by this section, including any difference or spread between the overall amount paid by pharmacy benefit managers to the pharmacy providers and the overall amount charged to the agency for each claim by the pharmacy benefit manager. To the extent necessary, the director shall use aggregated, nonproprietary data only: *Provided*, That the director must provide a clear and concise summary of the total amounts charged to the agency and reimbursed to pharmacy providers on a quarterly basis.

(k) If the information required herein is not provided, the agency may terminate the contract with the pharmacy benefit manager and the Office of the Insurance Commissioner shall discipline the pharmacy benefit manager as provided in §33-51-8(e) of this code.

CHAPTER 33. INSURANCE.

ARTICLE 51. PHARMACY AUDIT INTEGRITY ACT. REGULATION OF PHARMACY AUDITING ENTITIES AND PHARMACY BENEFIT MANAGERS.

§33-51-2. Scope.

This article covers any audit of the records of a pharmacy conducted by a managed care company, third-party payer, pharmacy benefits manager or an entity that represents a covered entity, or health benefit plan, the registration of auditing entities, and the licensure and regulation of pharmacy benefits managers.

§33-51-3. Definitions.

For purposes of this article:

'340B entity' means an entity participating in the federal 340B drug discount program, as described in 42 U.S.C. § 256b, including its pharmacy or pharmacies, or any pharmacy or pharmacies, contracted with the participating entity to dispense drugs purchased through such program.

~~'Affiliate' means a pharmacy, pharmacist, or pharmacy technician that directly or indirectly, through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control with a pharmacy benefit manager~~

'Affiliate' means a pharmacy, pharmacist, or pharmacy technician which, either directly or indirectly through one or more intermediaries: (A) Has an investment or ownership interest in a pharmacy benefits manager licensed under this chapter; (B) shares common ownership with a pharmacy benefits manager licensed under this chapter; or (C) has an investor or ownership interest holder which is a pharmacy benefits manager licensed under this article.

'Auditing entity' means a person or company that performs a pharmacy audit, including a covered entity, pharmacy benefits manager, managed care organization, or third-party administrator.

'Business day' means any day of the week excluding Saturday, Sunday, and any legal holiday as set forth in §2-2-1 of this code.

'Claim level information' means data submitted by a pharmacy or required by a payer or claims processor to adjudicate a claim.

'Covered entity' means a contract holder or policy holder providing pharmacy benefits to a covered individual under a health insurance policy pursuant to a contract administered by a pharmacy benefits manager and may include a health benefit plan.

'Covered individual' means a member, participant, enrollee, or beneficiary of a covered entity who is provided health coverage by a covered entity, including a dependent or other person provided health coverage through the policy or contract of a covered individual.

'Extrapolation' means the practice of inferring a frequency of dollar amount of overpayments, underpayments, nonvalid claims, or other errors on any portion of claims submitted, based on the frequency of dollar amount of overpayments, underpayments, nonvalid claims, or other errors actually measured in a sample of claims.

'Defined cost sharing' means a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee's health plan.

'Health benefit plan' or 'health plan' means a policy, contract, certificate, or agreement entered into, offered, or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

'Health care provider' has the same meaning as defined in §33-41-2 of this code.

'Health insurance policy' means a policy, subscriber contract, certificate, or plan that provides prescription drug coverage. The term includes both comprehensive and limited benefit health insurance policies.

'Insurance commissioner' or 'commissioner' has the same meaning as defined in §33-1-5 of this code.

'Network' means a pharmacy or group of pharmacies that agree to provide prescription services to covered individuals on behalf of a covered entity or group of covered entities in exchange for payment for its services by a pharmacy benefits manager or pharmacy services administration organization. The term includes a pharmacy that generally dispenses outpatient prescriptions to covered individuals or dispenses particular types of prescriptions, provides pharmacy services to particular types of covered individuals or dispenses prescriptions in particular health care settings, including networks of specialty, institutional or long-term care facilities.

'Maximum allowable cost' means the per unit amount that a pharmacy benefits manager reimburses a pharmacist for a prescription drug, excluding dispensing fees and copayments, coinsurance, or other cost-sharing charges, if any.

'National average drug acquisition cost' means the monthly survey of retail pharmacies conducted by the federal Centers for Medicare and Medicaid Services to determine average acquisition cost for Medicaid covered outpatient drugs.

'Nonproprietary drug' means a drug containing any quantity of any controlled substance or any drug which is required by any applicable federal or state law to be dispensed only by prescription.

'Pharmacist' means an individual licensed by the West Virginia Board of Pharmacy to engage in the practice of pharmacy.

'Pharmacy' means any place within this state where drugs are dispensed and pharmacist care is provided.

'Pharmacy audit' means an audit, conducted on-site by or on behalf of an auditing entity of any records of a pharmacy for prescription or nonproprietary drugs dispensed by a pharmacy to a covered individual.

'Pharmacy benefits management' means the performance of any of the following:

(1) The procurement of prescription drugs at a negotiated contracted rate for dispensation within the state of West Virginia to covered individuals;

(2) The administration or management of prescription drug benefits provided by a covered entity for the benefit of covered individuals;

(3) The administration of pharmacy benefits, including:

(A) Operating a mail-service pharmacy;

(B) Claims processing;

(C) Managing a retail pharmacy network;

(D) Paying claims to a pharmacy for prescription drugs dispensed to covered individuals via retail or mail-order pharmacy;

(E) Developing and managing a clinical formulary including utilization management and quality assurance programs;

(F) Rebate contracting administration; and

(G) Managing a patient compliance, therapeutic intervention, and generic substitution program.

'Pharmacy benefits manager' means a person, business, or other entity that performs pharmacy benefits management for covered entities;

'Pharmacy record' means any record stored electronically or as a hard copy by a pharmacy that relates to the provision of prescription or nonproprietary drugs or pharmacy services or other component of pharmacist care that is included in the practice of pharmacy.

'Pharmacy services administration organization' means any entity that contracts with a pharmacy to assist with third-party payer interactions and that may provide a variety of other administrative services, including contracting with pharmacy benefits managers on behalf of pharmacies and managing pharmacies' claims payments from third-party payers.

'Point-of-sale fee' means all or a portion of a drug reimbursement to a pharmacy or other dispenser withheld at the time of adjudication of a claim for any reason.

'Rebate' means any and all payments that accrue to a pharmacy benefits manager or its health plan client, directly or indirectly, from a pharmaceutical manufacturer, including, but not limited to, discounts, administration fees, credits, incentives, or penalties associated directly or indirectly in any way with claims administered on behalf of a health plan client.

'Retroactive fee' means all or a portion of a drug reimbursement to a pharmacy or other dispenser recouped or reduced following adjudication of a claim for any reason, except as otherwise permissible as described in this article.

'Third party' means any insurer, health benefit plan for employees which provides a pharmacy benefits plan, a participating public agency which provides a system of health insurance for public employees, their dependents and retirees, or any other insurer or organization that provides health coverage, benefits, or coverage of prescription drugs as part of workers' compensation insurance in accordance with state or federal law. The term does not include an insurer that provides coverage under a policy of casualty or property insurance.

§33-51-8. Licensure of pharmacy benefit managers.

(a) A person or organization may not establish or operate as a pharmacy benefits manager in the state of West Virginia without first obtaining a license from the Insurance Commissioner pursuant to this section: *Provided*, That a pharmacy benefit manager registered pursuant to §33-5-7 of this code may continue to do business in the state until the Insurance Commissioner has completed the legislative rule as set forth in §33-55-10 of this code: *Provided, however, That* additionally the pharmacy benefit manager shall submit an application within six months of completion of the final rule. The Insurance Commissioner shall make an application form available on its publicly accessible internet website that includes a request for the following information:

- (1) The identity, address, and telephone number of the applicant;
- (2) The name, business address, and telephone number of the contact person for the applicant;
- (3) When applicable, the federal employer identification number for the applicant; and

(4) Any other information the Insurance Commissioner considers necessary and appropriate to establish the qualifications to receive a license as a pharmacy benefit manager to complete the

licensure process, as set forth by legislative rule promulgated by the Insurance Commissioner pursuant to §33-51-10 of this code.

(b) Term and fee. —

(1) The term of licensure shall be two years from the date of issuance.

(2) The Insurance Commissioner shall determine the amount of the initial application fee and the renewal application fee for the registration. The fee shall be submitted by the applicant with an application for registration. An initial application fee is nonrefundable. A renewal application fee shall be returned if the renewal of the registration is not granted.

(3) The amount of the initial application fees and renewal application fees must be sufficient to fund the Insurance Commissioner's duties in relation to his/her responsibilities under this section, but a single fee may not exceed \$10,000.

(4) Each application for a license, and subsequent renewal for a license, shall be accompanied by evidence of financial responsibility in an amount of \$1 million.

(c) Licensure. —

(1) The Insurance Commissioner shall propose legislative rules, in accordance with §33-51-10 of this code, establishing the licensing, fees, application, financial standards, and reporting requirements of pharmacy benefit managers.

(2) Upon receipt of a completed application, evidence of financial responsibility, and fee, the Insurance Commissioner shall make a review of each applicant and shall issue a license if the applicant is qualified in accordance with the provisions of this section and the rules promulgated by the Insurance Commissioner pursuant to this section. The commissioner may require additional information or submissions from an applicant and may obtain any documents or information reasonably necessary to verify the information contained in the application.

(3) The license may be in paper or electronic form, is nontransferable, and shall prominently list the expiration date of the license.

(d) Network adequacy. —

(1) A pharmacy benefit manager's network shall be reasonably adequate, shall provide for convenient patient access to pharmacies within a reasonable distance from a patient's residence and shall not be comprised only of mail-order benefits but must have a mix of mail-order benefits and physical stores in this state.

(2) A pharmacy benefit manager shall provide a pharmacy benefit manager's network report describing the pharmacy benefit manager's network and the mix of mail-order to physical stores in this state in a time and manner required by rule issued by the Insurance Commissioner pursuant to this section.

(3) Failure to provide a timely report may result in the suspension or revocation of a pharmacy benefit manager's license by the Insurance Commissioner.

(e) Enforcement. —

(1) The Insurance Commissioner shall enforce this section and may examine or audit the books and records of a pharmacy benefit manager providing pharmacy benefits management to determine if the pharmacy benefit manager is in compliance with this section: *Provided*, That any information or data acquired during the examination or audit is considered proprietary and confidential and exempt from disclosure under the West Virginia Freedom of Information Act pursuant to §29B-1-4(a)(1) of this code.

(2) The Insurance Commissioner may propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code regulating pharmacy benefit managers in a manner consistent with this chapter. Rules adopted pursuant to this section shall set forth penalties or fines, including, without limitation, monetary fines, suspension of licensure, and revocation of licensure for violations of this chapter and the rules adopted pursuant to this section.

(f) Applicability. —

(1) This section is applicable to any contract or health benefit plan issued, renewed, recredentialed, amended, or extended on or after July 1, 2019.

~~(2) The requirements of this section, and any rules promulgated by the Insurance Commissioner pursuant to §33-51-9(f) of this code, do not apply to the coverage of prescription drugs under a plan that is subject to the Employee Retirement Income Security Act of 1974 or any information relating to such coverage~~

§33-51-9. Regulation of pharmacy benefit managers.

(a) A pharmacy, a pharmacist, and a pharmacy technician shall have the right to provide a covered individual with information related to lower cost alternatives and cost share for the covered individual to assist health care consumers in making informed decisions. Neither a pharmacy, a pharmacist, nor a pharmacy technician may be penalized by a pharmacy benefit manager for discussing information in this section or for selling a lower cost alternative to a covered individual, if one is available, without using a health insurance policy.

(b) A pharmacy benefit manager may not collect from a pharmacy, a pharmacist, or a pharmacy technician a cost share charged to a covered individual that exceeds the total submitted charges by the pharmacy or pharmacist to the pharmacy benefit manager.

(c) A pharmacy benefit manager may only directly or indirectly charge or hold a pharmacy, a pharmacist, or a pharmacy technician responsible for a fee related to the adjudication of a claim if:

(1) The total amount of the fee is identified, reported, and specifically explained for each line item on the remittance advice of the adjudicated claim; or

(2) The total amount of the fee is apparent at the point of sale and not adjusted between the point of sale and the issuance of the remittance advice.

(d) A pharmacy benefit manager, or any other third party, that reimburses a 340B entity for drugs that are subject to an agreement under 42 U.S.C. § 256b shall not reimburse the 340B entity for pharmacy-dispensed drugs at a rate lower than that paid for the same drug to pharmacies similar in prescription volume that are not 340B entities, and shall not assess any fee, charge-back, or other adjustment upon the 340B entity on the basis that the 340B entity participates in the program set forth in 42 U.S.C. §256b.

(e) With respect to a patient eligible to receive drugs subject to an agreement under 42 U.S.C. § 256b, a pharmacy benefit manager, or any other third party that makes payment for such drugs, shall not discriminate against a 340B entity in a manner that prevents or interferes with the patient's choice to receive such drugs from the 340B entity: *Provided*, That for purposes of this section, 'third party' does not include the state Medicaid program when Medicaid is providing reimbursement for covered outpatient drugs, as that term is defined in 42 U.S.C. §1396r-8(k), on a fee-for-service basis: *Provided, however*, That 'third party' does include a Medicaid-managed care organization as described in 42 U.S.C. § 1396b(m).

~~(f) This section does not apply with respect to claims under an employee benefit plan under the Employee Retirement Income Security Act of 1974 or, except for paragraph (d), to Medicare Part D.~~

(f) A pharmacy benefit manager may not reimburse a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the national average drug acquisition cost for the prescription drug or pharmacy service at the time the drug is administered or dispensed, plus a professional dispensing fee of \$10.49: *Provided*, That if the national average drug acquisition cost is not available at the time a drug is administered or dispensed, a pharmacy benefit manager may not reimburse in an amount that is less than the wholesale acquisition cost of the drug, as defined in 42 U.S.C. § 1395w-3a(c)(6)(B), plus a professional dispensing fee of \$10.49.

(g) A pharmacy benefit manager may not reimburse a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the amount the pharmacy benefit manager reimburses itself or an affiliate for the same prescription drug or pharmacy service.

(h) The commissioner may order reimbursement to an insured, pharmacy, or dispenser who has incurred a monetary loss as a result of a violation of this article or legislative rules implemented pursuant to this article.

(i) (1) Any methodologies utilized by a pharmacy benefits manager in connection with reimbursement shall be filed with the commissioner at the time of initial licensure and at any time thereafter that the methodology is changed by the pharmacy benefit manager for use in determining maximum allowable cost appeals. The methodologies are not subject to disclosure and shall be treated as confidential and exempt from disclosure under the West Virginia Freedom of Information Act §29B-1-4(a)(1) of this code.

(2) A pharmacy benefits manager shall utilize the national average drug acquisition cost as a point of reference for the ingredient drug product component of a pharmacy's reimbursement for drugs appearing on the national average drug acquisition cost list; and,

(j) A pharmacy benefits manager may not:

(1) Discriminate in reimbursement, assess any fees or adjustments, or exclude a pharmacy from the pharmacy benefit manager's network on the basis that the pharmacy dispenses drugs subject to an agreement under 42 U.S.C. § 256b; or

(2) Engage in any practice that:

(A) In any way bases pharmacy reimbursement for a drug on patient outcomes, scores, or metrics. This does not prohibit pharmacy reimbursement for pharmacy care, including dispensing fees from being based on patient outcomes, scores, or metrics so long as the patient outcomes, scores, or metrics are disclosed to and agreed to by the pharmacy in advance;

(B) Includes imposing a point-of-sale fee or retroactive fee; or

(C) Derives any revenue from a pharmacy or insured in connection with performing pharmacy benefits management services: *Provided*, That this may not be construed to prohibit pharmacy benefits managers from receiving deductibles or copayments.

(k) A pharmacy benefits manager shall offer a health plan the option of charging such health plan the same price for a prescription drug as it pays a pharmacy for the prescription drug: *Provided*, That a pharmacy benefits manager shall charge a health benefit plan administered by or on behalf of the state or a political subdivision of the state, the same price for a prescription drug as it pays a pharmacy for the prescription drug.

(l) A pharmacy benefits manager shall pay 100% of all credits, rebates, discounts, or other such payments negotiated with drug manufacturers to the health benefit plan or covered entity. The health benefit plan or covered entity shall apply 100% of the credits, rebates, discounts, or other such payments to reduce insurance premiums or rates on a yearly basis: *Provided*, That this subsection does not apply to a 340B entity.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2022. This section applies to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after the effective date of this section.

§33-51-11. Freedom of consumer choice for pharmacy.

(a) A pharmacy benefits manager or health benefit plan may not:

(1) Prohibit or limit any covered individual from selecting a pharmacy or pharmacist of his or her choice who has agreed to participate in the plan according to the terms offered by the insurer;

(2) Deny a pharmacy or pharmacist the right to participate as a contract provider under the policy or plan if the pharmacy or pharmacist agrees to provide pharmacy services, including, but not limited to, prescription drugs, that meet the terms and requirements set forth by the insurer under the policy or plan and agrees to the terms of reimbursement set forth by the insurer;

(3) Impose upon a beneficiary of pharmacy services under a health benefit plan any copayment, fee, or condition that is not equally imposed upon all beneficiaries in the same benefit category, class, or copayment level under the health benefit plan when receiving services from a contract provider;

(4) Impose a monetary advantage or penalty under a health benefit plan that would affect a beneficiary's choice among those pharmacies or pharmacists who have agreed to participate in the plan according to the terms offered by the insurer. Monetary advantage or penalty includes higher copayment, a reduction in reimbursement for services, or promotion of one participating pharmacy over another by these methods;

(5) Reduce allowable reimbursement for pharmacy services to a beneficiary under a health benefit plan because the beneficiary selects a pharmacy of his or her choice, so long as that pharmacy has enrolled with the health benefit plan under the terms offered to all pharmacies in the plan coverage area;

(6) Require a beneficiary, as a condition of payment or reimbursement, to purchase pharmacy services, including prescription drugs, exclusively through a mail-order pharmacy; or

(7) Impose upon a beneficiary any copayment, amount of reimbursement, number of days of a drug supply for which reimbursement will be allowed, or any other payment or condition relating to

purchasing pharmacy services from any pharmacy, including prescription drugs, that is more costly or more restrictive than that which would be imposed upon the beneficiary if such services were purchased from a mail-order pharmacy or any other pharmacy that is willing to provide the same services or products for the same cost and copayment as any mail order service.

(b) If a health benefit plan providing reimbursement to West Virginia residents for prescription drugs restricts pharmacy participation, the entity providing the health benefit plan shall notify, in writing, all pharmacies within the geographical coverage area of the health benefit plan, and offer to the pharmacies the opportunity to participate in the health benefit plan at least 60 days prior to the effective date of the plan. All pharmacies in the geographical coverage area of the plan shall be eligible to participate under identical reimbursement terms for providing pharmacy services, including prescription drugs. The entity providing the health benefit plan shall, through reasonable means, on a timely basis and on regular intervals, inform the beneficiaries of the plan of the names and locations of pharmacies that are participating in the plan as providers of pharmacy services and prescription drugs. Additionally, participating pharmacies shall be entitled to announce their participation to their customers through a means acceptable to the pharmacy and the entity providing the health benefit plans. The pharmacy notification provisions of this section shall not apply when an individual or group is enrolled, but when the plan enters a particular county of the state.

(c) The Insurance Commissioner shall not approve any pharmacy benefits manager or health benefit plan providing pharmaceutical services which do not conform to this section.

(d) Any covered individual or pharmacy injured by a violation of this section may maintain a cause of action to enjoin the continuance of any such violation.

(e) This section shall apply to all pharmacy benefits managers and health benefit plans providing pharmaceutical services benefits, including prescription drugs, to any resident of West Virginia. For purposes of this section, 'health benefit plan' means any entity or program that provides reimbursement for pharmaceutical services. This section shall also apply to insurance companies and health maintenance organizations that provide or administer coverages and benefits for prescription drugs. This section shall not apply to any entity that has its own facility, employs or contracts with physicians, pharmacists, nurses and other health care personnel, and that dispenses prescription drugs from its own pharmacy to its employees and dependents enrolled in its health benefit plan; but this section shall apply to an entity otherwise excluded that contracts with an outside pharmacy or group of pharmacies to provide prescription drugs and services.

§33-51-12. Reporting requirements.

(a) A pharmacy benefits manager shall report to the commissioner on an annual basis, or more often as the commissioner deems necessary, for each health plan or covered entity the following information:

(1) The aggregate amount of rebates received by the pharmacy benefits manager;

(2) The aggregate amount of rebates distributed to each health plan or covered entity contracted with the pharmacy benefits manager;

(3) The aggregate amount of rebates passed on to the enrollees of each health plan or covered entity at the point of sale that reduced the enrollees applicable deductible, copayment, coinsurance, or other cost-sharing amount;

(4) The individual and aggregate amount paid by the health plan or covered entity to the pharmacy benefits manager for pharmacist services itemized by pharmacy, by product, and by goods and services; and

(5) The individual and aggregate amount a pharmacy benefits manager paid for pharmacist services itemized by pharmacy, by product, and by goods and services.

(b) A pharmacy benefits manager shall annually report in the aggregate to the commissioner and to a health plan or covered entity the difference between the amount the pharmacy benefits manager reimbursed a pharmacy and the amount the pharmacy benefits manager charged a health plan.

(c) A health benefit plan or covered entity shall annually report to the commissioner the aggregate amount of credits, rebates, discounts, or other such payments received by the health benefit plan or covered entity from a pharmacy benefits manager or drug manufacturer and disclose whether or not those credits, rebates, discounts or other such payments were passed on to reduce insurance premiums or rates. The commissioner shall consider the information in this report in reviewing any premium rates charged for any individual or group accident and health insurance policy as set forth in §33-6-9(e), §33-24-6(c), and §33-25A-8 of this code.

(d) A pharmacy benefits manager shall produce a quarterly report to the commissioner of all drugs appearing on the national average drug acquisition cost list reimbursed 10 percent and below the national average drug acquisition cost, as well as all drugs reimbursed 10 percent and above the national average drug acquisition cost. For each drug in the report, a pharmacy benefits manager shall include the month the drug was dispensed, the quantity of the drug dispensed, the amount the pharmacy was reimbursed, whether the dispensing pharmacy was an affiliate of the pharmacy benefits manager, whether the drug was dispensed pursuant to a government health plan, and the average national drug acquisition cost for the month the drug was dispensed. The report shall exclude drugs dispensed pursuant to 42 U.S.C. § 256b. A copy of this report shall also be published on the pharmacy benefits manager's publicly available website for a period of at least 24 months. This report is exempt from the confidentiality provisions of subsection (f).

(e) The reports shall be filed electronically on a form and manner as prescribed by the commissioner pursuant to a legitimate rule promulgated by the commissioner.

(f) With the exception of the quarterly report noted in subsection (d) of this section all data and information provided by the pharmacy benefits manager, health plan, or covered entity pursuant to these established reporting requirements shall be considered proprietary and confidential and exempt from disclosure under the West Virginia Freedom of Information Act §29B-1-4(a)(1) of this code."

And,

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

Com. Sub. for H. B. 2263 – “A Bill to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-51-2, §33-51-3, §33-51-8, and §33-51-9 of said code; and to amend said code by adding thereto two new sections, designated §33-51-11 and §33-51-12, all relating to the regulation of pharmacy benefit managers; amending reporting requirements related Public Employees Insurance Agency; expanding scope; defining terms; regulating the reimbursements of pharmacy benefit managers; addressing network adequacy; providing an effective date; requiring filing of certain methodologies utilized by pharmacy benefit managers; prohibiting certain practices by pharmacy benefits managers; providing consumer choice for pharmacies; setting guidelines for pharmacy benefit plans; requiring rebates to be passed on to the health plan; requiring reporting; and requiring commissioner to consider information in reviewing rates.”

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

On page 18, section 9, line 74, by striking out subsection (l) in its entirety and inserting a new subsection (l) all to read as follows:

“(l) A covered individual’s defined cost sharing for each prescription drug shall be calculated at the point of sale based on a price that is reduced by an amount equal to at least 100% of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. Nothing precludes an insurer from decreasing a covered individual’s defined cost sharing by an amount greater than what is previously stated.”

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

On passage of the bill, the yeas and nays were taken (**Roll No. 212**), and there were—yeas 98, nays none, absent and not voting 2, with absent and not voting being as follows:

Absent and Not Voting: Ellington and Kessinger.

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. 2263) 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. 2372, Allow pre-candidacy papers to be filed the day after the general election.

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:

“CHAPTER 3. ELECTIONS.

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-5e. Pre-candidacy financing and expenditures.

(a) Notwithstanding any other provisions of this code, it is lawful for a person, otherwise qualified to be a candidate for any public office or position to be determined by public election, to receive contributions or make expenditures, or both personally or by another individual acting as a treasurer, to determine the advisability of becoming such a candidate or preparing to be such a candidate: Provided, That an individual may file his or her pre-candidacy papers, and may receive contributions and make expenditures related thereto, beginning on the day after the general election is held for the term of office immediately preceding the term of office for which the person may become a candidate, if such term of office is four years or less: Provided, however, That such pre-candidacy papers may be filed, such contributions may be received, and such expenditures may be made only during the

four years immediately preceding the term of office for which such person may be a candidate ~~or during the term of office immediately preceding the term for which such person may be a candidate, whichever is less, if such term of office is more than four years: *Provided, however, further,*~~ That no person is disqualified from receiving contributions or making expenditures as permitted under the provisions of this section solely because such person then holds a public office or position.

(b) Any person undertaking to determine the advisability of becoming or preparing to be a candidate, who desires to receive contributions before filing a certificate of candidacy, shall designate himself or another individual to act as a treasurer and shall file a designation of treasurer in the manner provided in §3-8-4 of this code before receiving any contributions permitted by this section. Any expenditures made before the filing of a designation of treasurer shall be reported in accordance with the provisions of §3-8-5 of this code regardless of the source of funds used for such expenditures.

(c) A person who receives a contribution who is acting for and by himself or herself or as treasurer or agent for another pursuant to the provisions of this section shall keep detailed accounts of every sum of money or other thing of value received by him or her, and of all expenditures and disbursements made, and liabilities incurred, in the same manner as such accounts are required by §3-8-5 of this code.

(d) Regardless of whether such person becomes a candidate as originally intended, becomes a candidate for some office other than the office or position originally intended, or does not become a candidate, all limits on campaign contributions and campaign expenditures applicable to the candidacy of or advocacy of the candidacy of such person for the office he or she actually seeks shall be applicable to and inclusive of the receipts had and expenditures made during such pre-candidacy period as well as after the person becomes a candidate.”

And,

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

Com. Sub. for H. B. 2372 - “A Bill to amend and reenact §3-8-5e of the Code of West Virginia, 1931, as amended, relating to modifying the date to file pre-candidacy registration papers, receive contributions, and make expenditures for persons undertaking to determine the advisability of becoming or preparing to be a candidate for a public office or position.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 213**), and there were—yeas 98, nays none, absent and not voting 2, with absent and not voting being as follows:

Absent and Not Voting: Ellington and Kessinger.

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. 2372) 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. 2616 - Amend the reporting to the Governor and the Legislature to have information continuously available on the Office of Health Facility Licensure and Certification's website.

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

On page three, section two, line fifty, by striking out “§25-1-3 or”.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 214**), and there were—yeas 98, nays none, absent and not voting 2, with absent and not voting being as follows:

Absent and Not Voting: Ellington and Kessinger.

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. 2616) 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 July 1, 2021, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2682, Relating to the issuance of license suspensions to insurance producers and insurance adjusters who have failed to meet continuing education requirements.

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 12. INSURANCE PRODUCERS AND SOLICITORS.

§33-12-8. Continuing education required.

The purpose of this ~~provision~~ section is to provide continuing education requirements under guidelines set up under the Insurance Commissioner's office ~~with the guidelines to be set up under in conjunction with the board~~ Board of Insurance Agent Education.

(a) This section applies to individual insurance producers licensed to engage in the sale of the following types of insurance:

(1) Life. — Life insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health or sickness. — Insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;

(3) Property. — Property insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) Casualty. — Insurance coverage against legal liability, including that for death, injury, or disability or damage to real or personal property;

(5) Variable life and variable annuity products. — Insurance coverage provided under variable life insurance contracts and variable annuities;

(6) Personal lines. — Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; and

(7) Any other line of insurance permitted under state laws or regulations.

(b) This section does not apply to:

(1) Individual insurance producers holding limited line credit insurance licenses for any kind or kinds of insurance offered in connection with loans or other credit transactions or insurance for which an examination is not required by the commissioner, nor does it apply to any limited or restricted license as the commissioner may exempt; and

(2) Individual insurance producers selling credit life or credit accident and health insurance.

(c)(1) The Board of Insurance Agent Education as established by ~~section seven of this article §33-12-7 of this code~~ shall develop a program of continuing insurance education and submit the proposal for the approval of the commissioner on or before ~~the thirty first day of December of each year~~ December 31 of each year. No program may be approved by the commissioner that includes a requirement that any individual insurance producer complete more than 24 hours of continuing insurance education biennially. No program may be approved by the commissioner that includes a requirement that any of the following individual insurance producers complete more than six hours of continuing insurance education biennially:

(A) Individual insurance producers who sell only preneed burial insurance contracts; and

(B) Individual insurance producers who engage solely in telemarketing insurance products by a scripted presentation which scripted presentation has been filed with and approved by the commissioner.

(C) The biennium mandatory continuing insurance education provisions of this section become effective on the reporting period beginning ~~the first day of July, two thousand six~~ July 1, 2006.

(2) The commissioner and the board, 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, agents' 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.

(d) Individual insurance producers licensed to sell insurance and who are not otherwise exempt shall satisfactorily complete the courses or programs of instructions the commissioner may prescribe.

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

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

(f) Subject to the approval by the commissioner, the active annual membership by an individual insurance producer 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 insurance education may be awarded to an individual insurance producer for membership in a professional insurance organization during a biennial reporting period. Credit for continuing insurance education pursuant to this subdivision may only be awarded to individual insurance producers who are required to complete more than six hours of continuing education biennially.

(g) Individual insurance producers who are required to complete more than six hours of continuing education biennially and 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.

(h) Any individual insurance producer 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 for any kind or kinds of insurance 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.

(i) The commissioner shall notify the individual insurance producer of his or her suspension pursuant to §33-12-8(h) of this code by ~~certified~~ electronic mail return receipt requested or regular mail, if requested, to the last ~~address~~ respective address on file with the commissioner pursuant to ~~subsection (e), section nine of this article~~ §33-12-9(f) of this code. Any individual insurance producer who has had a suspension ~~order~~ notice entered against him or her pursuant to this section may, within 30 calendar days of receipt of the ~~order~~ notice, file with the commissioner a request for a hearing for reconsideration of the matter.

(j) Any individual insurance producer 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 canceled and is subject to the education and examination requirements of ~~section five of this article~~ §33-12-5 of this code.

(k) 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 insurers. 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.

§33-12-9. Issuance of license.

(a) Unless denied licensure pursuant to ~~article twenty-four of this chapter~~ §33-12-24 of this code, individuals who have met the requirements of ~~articles five and six of this chapter~~ §33-12-5 and §33-

12-6 of this code shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health or sickness. — Insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;

(3) Property insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) Casualty. — Insurance coverage against legal liability, including that for death, injury, or disability or damage to real or personal property;

(5) Variable life and variable annuity products. — Insurance coverage provided under variable life insurance contracts and variable annuities;

(6) Personal lines. — Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(7) Credit. — Limited line credit insurance; or

(8) Any other line of insurance permitted under state laws or regulations.

(b) An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in ~~section thirteen, article three of this chapter~~ §33-3-13 of this code is paid and education requirements for resident individual producers are met by the due date.

(c) An individual insurance producer who allows his or her license to lapse may, within 12 months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.

(d) An individual licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance (e.g., a long-term medical disability) may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(e) The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, the expiration date, and any other information the Insurance Commissioner considers necessary.

(f) ~~Licensees shall inform the Insurance Commissioner by any means acceptable to the Insurance Commissioner of a change of address or residency within 30 days of the change.~~ At the time of application for licensure, the applicant shall inform the Insurance Commissioner of the applicant's full name, physical and mailing address, if different, and electronic mail address. Each agent, insurance agency, solicitor, or service representative that is licensed on July 1, 2021, shall provide the Insurance Commissioner with the licensee's electronic mail address in connection with the next license renewal application of the respective licensee. If a change occurs to the licensee's name, physical address, mailing address, or electronic mail address after licensure, the licensee shall inform the Insurance

Commissioner by any means acceptable to the Insurance Commissioner of the updated contact information within 30 days of the change. Failure to timely inform the Insurance Commissioner of a change in legal name, residency, or mailing address, or electronic mail address may result in a penalty pursuant to ~~section twenty-four of this article~~ §33-12-24 of this code. The commissioner shall maintain the mailing address of information provided pursuant to this subsection for each agent, insurance agency, solicitor, and service representative on file.

(g) In order to assist in the performance of the Insurance Commissioner's duties, the Insurance Commissioner may contract with nongovernmental entities, including the ~~national association~~ National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the Insurance Commissioner and the nongovernmental entity may consider appropriate.

ARTICLE 12B. ADJUSTERS.

§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 §33-12B-13(i) of this code by ~~certified electronic mail return receipt requested or regular mail, if requested,~~ to the last ~~address~~ respective address on file with the commissioner pursuant to ~~§33-12B-2(b)~~ §33-12B-14(a) of this code. Any individual insurance adjuster who has had a suspension ~~order~~ notice entered against him or her pursuant to this section may, within 30 calendar days of receipt of the ~~order~~ notice, 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-14. Current address of adjusters to be filed; effective notice of appearance at hearing before commissioner.

(a) Each adjuster shall file with the commissioner the complete address of his principal place of business and the complete address of his residence including the name and number of the street, or if the street where the business is located is not numbered, the number of the post office box. An adjuster shall also file with the commissioner the adjuster's electronic mail address. An adjuster

licensed on July 1, 2021, shall provide the commissioner with the licensee's electronic mail address in connection with the licensee's next license renewal application. Within 30 days of a change of business or residence address or electronic mail address by an adjuster, the adjuster must file with the commissioner notice of such change of address. The commissioner shall maintain the information provided pursuant to this subsection for each adjuster on file.

(b) When conducting any hearing authorized by ~~section thirteen, article two of this chapter~~ §33-2-13 of this code which concerns any adjuster, the commissioner shall give notice of such hearing and the matters to be determined therein to such adjuster by certified mail, return receipt requested, sent to the last address filed by such person or entity pursuant to this section.

(c) If an adjuster fails to appear at such hearing, the hearing may proceed, at which time the commissioner shall establish that notice was sent to such person pursuant to this section prior to the entry of any orders adverse to the interests of such adjuster based upon the allegations against such person which were set forth in the notice of hearing. Certified copies of all orders entered by the commissioner shall be sent to the person affected therein by certified mail, return receipt requested, at the last address filed by such person with the ~~division~~ commissioner.

(d) An adjuster who fails to appear at a hearing of which notice has been provided pursuant to this section, and who has had an adverse order entered by the commissioner against them as a result of their failure to so appear may, within 30 calendar days of the entry of such adverse order, file with the commissioner a written verified appeal with any relevant documents attached thereto, which demonstrates good and reasonable cause for the adjuster's failure to appear, and may request reconsideration of the matter and a new hearing. The commissioner in his or her discretion, and upon a finding that the adjuster has shown good and reasonable cause for his or her failure to appear, shall issue an order that the previous order be rescinded, that the matter be reconsidered, and that a new hearing be set.

(e) Orders entered pursuant to this section are subject to the judicial review provisions of §33-2-14 of this code.”

And,

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

Com. Sub. for H. B. 2682 – “A Bill to amend and reenact §33-12-8 and §33-12-9 of the Code of West Virginia, 1931, as amended, and to amend and reenact §33-12B-13 and §33-12B-14 of said code, all relating to the issuance of license suspensions to insurance producers and insurance adjusters who have failed to meet continuing education requirements; changing the requirement that the Insurance Commissioner send license suspensions to insurance producers by certified mail with a requirement that the suspensions be sent by electronic mail or regular mail; providing that each agent, insurance agency, solicitor, or service representative must report his or her respective electronic mail address to the Insurance Commissioner and providing time periods to report changes of information provided to Insurance Commissioner; changing the requirement that the Insurance Commissioner send license suspensions to insurance adjusters by certified mail with a requirement that the suspensions be sent by electronic mail or regular mail; providing that each insurance adjuster must report his or her respective electronic mail address to the Insurance Commissioner and providing time periods to report changes of information provided to Insurance Commissioner; and requiring the Insurance Commissioner to maintain certain information.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 215**), 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: Ellington and Kessinger.

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. 2682) passed.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 216**), 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: Ellington and Kessinger.

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. 2682) takes effect July 1, 2021.

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 passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 562 - “A Bill to amend and reenact §49-4-712 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto nine new sections, designated §49-4-727, §49-4-728, §49-4-729, §49-4-730, §49-4-731, §49-4-732, §49-4-733, §49-4-734, and §49-4-735, all relating to juvenile competency proceedings generally; creating a process to raise and resolve questions of a competency in juvenile delinquency matters; prohibiting a juvenile found to be incompetent to stand trial to be placed in Bureau of Juvenile Services facility; defining terms; creating a rebuttable presumption that juveniles 14 years of age and older are competent to proceed; creating a rebuttable presumption that juveniles under 14 years of age are incompetent to proceed; providing all proceedings stayed until competency resolved; requiring the appointment of a guardian ad litem when a juvenile is determined to be incompetent; establishing qualifications for qualified forensic evaluators; requiring written competency evaluation report; requesting the Supreme Court to establish a training program for guardians ad litem; establishing time frames for jurisdiction and competency attainment services; establishing procedures for competency hearings; and providing disposition alternatives for incompetent juveniles and staying transfer to criminal jurisdiction”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 566 - “A Bill to amend and reenact §18-3-6 of the Code of West Virginia, 1931, as amended, relating to upholding and applying the Superintendent of Schools’ interpretation

of school law and State Board of Education rules”; which was referred to the Committee on the Judiciary.

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 Technology and Infrastructure then Rules:

S. C. R. 16 - “Requesting the Division of Highways name a stretch of West Virginia Route 85 beginning at the southern end of Dunlap Brothers Road at Uneeda and ending one mile south near Quinland in Madison, West Virginia, as the ‘U.S.M.C. CPL Roger Lee Boothe Memorial Road’.”

Whereas, Roger Lee Boothe was born in Logan County on August 20, 1947, and moved to Uneeda in Boone County at the age of three where he was raised; and

Whereas, Roger Lee Boothe graduated from Scott High School, and at age 18, he entered the U.S. Marine Corps; and

Whereas, While at Quang Tri, Vietnam, with only eight days left until his deployment home, the bunker where CPL Roger Lee Boothe was assigned was shelled. He was left paralyzed from the waist down; and

Whereas, When CPL Roger Lee Boothe returned home, he enrolled at the West Virginia Rehab Center to study accounting and played on their wheelchair basketball team; and

Whereas, Roger Lee Boothe went on to earn a chemistry degree from West Virginia State University, and then to West Virginia University, where he successfully completed their pharmacy program; and

Whereas, CPL Roger Lee Boothe then returned to Uneeda to help his mother, who was ill, and also opened a pharmacy there in 1976 to help his community; and

Whereas, CPL Roger Lee Boothe was always a guiding light for his community and never turned down the opportunity to help someone in need, whether it was loaning money for food or medicine, or just being there to listen when someone was going through a difficult time; and

Whereas, CPL Roger Lee Boothe always had an interest in sports, and he played basketball and baseball as a left-handed pitcher in high school; and

Whereas, Later, CPL Roger Lee Boothe played wheelchair basketball, participated in the Charleston Distance Run, and supported athletic teams in Madison and the surrounding areas; and

Whereas, CPL Roger Lee Boothe also became interested in flying, learned to fly ultralight planes, and even built his own airplane, where he customized it with hand controls; and

Whereas, CPL Roger Lee Boothe has selflessly helped several students get their college degrees and much more; and

Whereas, CPL Roger Lee Boothe was a very humble, private person, and he did not speak of his many outreach and assistance efforts on his own. This information was gathered by family and friends who love and appreciate him; and

Whereas, Sadly, on Sunday, August 11, 2019, CPL Roger Lee Boothe passed away. He was preceded in death by his parents, Bill and Mary (Green) Boothe; his brother, Ralph; his sister, RoseMary (Boothe) McCray; and nephew, Bill Church; and

Whereas, CPL Roger Lee Boothe is survived by his companion, and love of his life of 25 years, Nada Baldwin; his brother, Dale Boothe; sister, Rita Boothe Church; nieces, Wendy Miller, London Gibson, and Dee-Dee Seagraves; nephews, Tom, Jim, and Joe Boothe; a special friend, Brock Loftis; a special granddaughter, Brittany Baldwin; and a 12-year-old granddaughter, Azriella Baldwin; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Roger Lee Boothe and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name a stretch of West Virginia Route 85 beginning at the southern end of Dunlap Brothers Road at Uneeda and ending one mile south near Quinland in Madison, West Virginia, as the "U.S.M.C. CPL Roger Lee Boothe Memorial Road"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the road as the "U.S.M.C. CPL Roger Lee Boothe Memorial Road"; and, be it

Further Resolved, That the Clerk of Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways."

Resolutions Introduced

Delegate Sypolt offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

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."

Whereas, Federal law currently imposes a maximum gross vehicle weight of 80,000 pounds on interstate highways, without any tolerance, and with axle weight restrictions and the bridge formula often reducing such maximum weight; and

Whereas, West Virginia has an 80,000-pound maximum gross vehicle weight limit, but permits a 10-percent tolerance, raising the permissible maximum weight to 88,000 pounds; and

Whereas, Vehicles transporting commodities through West Virginia often reach our state on interstate highways, but leave the interstate highways system and switch to West Virginia's local roads, taking advantage of the higher weight limit on such routes; and

Whereas, Such practice increases traffic on West Virginia's mountainous country roads, raises safety concerns, and limits economic avenues; and

Whereas, Interstates could safely support the same weight restrictions as those on U.S. routes in West Virginia given that the design standards used for both systems are identical and the weight increase would be minimal; and

Whereas, The West Virginia Department of Transportation, Division of Highways, is poised to address any questions Congress or the U.S. Department of Transportation, Federal Highway Administration, may have to demonstrate the feasibility of this request; and

Whereas, Providing an exception to the existing weight limits and restrictions in Title 23 of the United States Code, including the bridge formula, for vehicles operating on interstate highways in West Virginia will allow more vehicles to travel the safer interstate highways and expand economic access throughout West Virginia; and

Whereas, Congress has previously provided exceptions to the maximum gross vehicle weight on interstate highways for several states of the United States; therefore, be it

Resolved by the House of Delegates:

That Congress is urged 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, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, and to the members of West Virginia's Congressional Delegation.

Delegate Burkhammer offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 61 - "Requesting the Division of Highways name a bridge bearing the bridge number: 21-030/12-000.25 (21a172), (38.94030, -80.42246) locally known as Hog Hollow w-beam, carrying CR 30/12 over Skin Creek in Lewis County as the 'Army Reserve Nurse Rose V. Davis Forinash West Memorial Bridge'."

Whereas, Rose V. Davis Forinash West was born on January 30, 1887, in Lewis County to the late David and Susan Bennett Davis, and was raised on Hog Hollow Road near the community of Vandalia, West Virginia; and

Whereas, Rose V. Davis Forinash West worked at the Bailey House in Weston, West Virginia, for Sally Vanderbolt to earn enough money for nursing school; and

Whereas, In 1913, at age 26, she attended the Philadelphia School of Nursing where she graduated in 1915 third in her class; and

Whereas, On February 24, 1915, she received her certificate in the American Red Cross Nursing Service; and

Whereas, After nursing school and receiving her nursing certification, Rose V. Davis Forinash West returned to Weston to work at the Weston State Hospital where she became head nurse and medical supervisor; and

Whereas, On February 24, 1915, she received her certificate in the American Red Cross Nursing Service; and

Whereas, On December 22, 1917, Rose V. Davis Forinash West entered World War I by joining the U.S. Army Nursing Corp; and

Whereas, Rose V. Davis Forinash West began her Army career at Camp Lee, and worked at the following hospitals throughout her career: Queen Mary's Military Hospital at Walley, England; Base Hospital No. 18 at Etap, France; Hospital No. H12 France, and New York City Base Hospital No. 1; and

Whereas, The stories of heroism were endless as she was known for running into foxholes to reach the wounded while enemy artillery fire was still happening; and

Whereas, Rose V. Davis Forinash West often worked days at a time without relief and one specific story, she was known for performing surgery to remove shrapnel from a wounded soldier's leg in the foxhole before the ambulance could reach him; and

Whereas, Upon her death, President Nixon offered the following citation, "The United States of America honors the memory of Rose V. West. This certificate is awarded by a grateful nation in recognition of devoted and selfless consecration to the service of our country in the Armed Forces of the United States;" and

Whereas, For these reasons it is fitting and proper that the bridge be named in honor of Rose V. Davis Forinash West; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is requested to name a bridge bearing the bridge number: 21-030/12-000.25 () (21a172), (38.94030, -80.42246) locally known as Hog Hollow w-beam, carrying CR 30/12 over Skin Creek in Lewis County as the "Army Reserve Nurse Rose V. Davis Forinash West Memorial Bridge"; and, be it

Further Resolved, That the commissioner of the Division of Highways is requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge as the "Army Reserve Nurse Rose V. Davis Forinash West Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the commissioner of the Division of Highways.

Special Calendar

Third Reading

Com. Sub. for S. B. 469, Permitting and establishing requirements for appearance by video for purpose of notarial acts; 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. 217**), and there were—yeas 98, nays none, absent and not voting 2, with absent and not voting being as follows:

Absent and Not Voting: Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 469) passed.

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

Com. Sub. for H. B. 2174, West Virginia Monument and Memorial Protection Act of 2021; on third reading, coming up in regular order, with amendments pending and the right to amend, was reported by the Clerk.

On motion of Delegates Pushkin, Fluharty, Rowe, Zukoff and Young the bill was amended as follows:

On page 1, section 8c, line 3, by striking out the word “school”.

On page 2, section 8c, line 14, by striking out the word “school”.

On page 2, section 8c, line 19, by striking out the word “school”.

On page 2, section 8c, line 24, by striking out the word “school”;

And,

On page 2, section 8c, line 30, by striking out the word “school”.

Delegate Young moved to amend the bill on page 3, section 8c, line 49, by striking out the period, inserting a colon and the following proviso:

“Provided, That a citizen or citizens of West Virginia may petition for removal of an item, structure, or area described in subsection (b) to the entity exercising control of public property on which an item, structure or area is located, and if the entity refuses to apply for a permit, then that citizen or citizens may request the West Virginia State Historic Preservation Office to issue the permit, and upon its issuance, the entity shall comply.”

On this question, division was demanded and the Speaker declared the amendment adopted.

An amendment, offered by Delegates Hornbuckle, Walker, Pushkin, Fluharty, Young and Hansen was read by the Clerk, on page 3, section 8c, line 43, following the word “Office”, by inserting the words: “for state owned or leased property, or the governing body of a local political subdivision for its owned or leased property,”.

And,

On page 3, Section 8c, line 45, following the word “Office” by inserting the words: “for state owned or leased property, or the governing body of a local political subdivision for its owned or leased property,”.

Delegate Steele arose to inquire of the Chair regarding the amendment conflicting with a previously adopted amendment. The Speaker replied that the amendments did not conflict as a matter of parliamentary procedure.

Delegate Hornbuckle, subsequently asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegates Hornbuckle, Rowe and Fluharty, the bill was amended on page 1, section 8c, line 7, by striking out the words “the War between the states” and inserting in lieu thereof the words “the American Civil War”.

On motion of Delegates Hornbuckle, Fluharty and Young, the bill was amended on page 3, section 8c, lines 50 through 53, following the subsection (e) designation by striking out the following:

“(1) This section shall apply to items, structures, or areas described in subsection (b) in existence prior to January 1, 1970, and those lawfully erected, named or dedicated on or after January 1, 1970.

(2)”.

Delegates Hornbuckle, Fluharty, Hansen and Young moved to amend the bill on page 3, section 8c, line 60, following the period, by inserting the following:

“(g) Any Civil War related monument, memorial, nameplate or plaque that is removed pursuant to this section shall be donated to the Guyandotte Civil War Days, Inc. located in Guyandotte, West Virginia, for retention and display at its museum or upon museum grounds.”

The question being the adoption of the amendment offered by Delegates Hornbuckle, Fluharty, Hansen and Young, the same was put and did not prevail.

Delegates Fluharty, Skaff, Hansen, Rowe and Walker moved to amend the bill on page 2, section 8c, line 13, following the word “disturbed”, by striking out the period and inserting a colon and the following proviso:

“Provided, That this subsection does not apply to a statue, monument, memorial, nameplate, plaque, school, street, bridge, building, park, preserve, or reserve which has been erected, named or dedicated in honor of events in our military history that honors any person, group or event that owned slaves or was motivated by racism, bigotry or hate against our citizens, our form of government, or its institutions.”

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 218**), and there were—yeas 24, nays 74, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Ellington and Kessinger.

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

An amendment offered by Delegates Pinson, Burkhammer, Foster, Martin and Phillips, was reported by the Clerk, on page 2, section 8c, line 34, following the conclusion of subdivision (5), by inserting a new subsection to read as follows:

“(6) No statue, monument, memorial, nameplate, plaque, historical flag display, school, street, bridge, building, park, preserve, or reserve which has been erected for, or named or dedicated in honor of events of historical religious significance, and is located on public property, may be relocated, removed, altered, renamed, rededicated, or otherwise disturbed.”

And,

Renumbering the remaining subdivision accordingly.

Whereupon,

Delegate Pinson asked and obtained unanimous consent that the amendment be reformed as follows:

On page 2, section 8c, line 34, following the conclusion of subdivision (5), by inserting a new subsection to read as follows:

“(6) No statue, monument, memorial, nameplate, plaque, historical flag display, street, bridge, building, park, preserve, or reserve which has been erected for, or named or dedicated in honor of events of historical religious significance, and is located on public property, may be relocated, removed, altered, renamed, rededicated, or otherwise disturbed.”

And,

Renumbering the remaining subdivision accordingly.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken **(Roll No. 219)**, and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Rowe.

Absent and Not Voting: Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

Having been engrossed, the bill was read a third time.

Speaker Pro Tempore Howell in the Chair

Delegate Hornbuckle was addressing the House when Delegate Steele arose to a point of order regarding the Delegate visually displaying a sign during his remarks.

The Speaker Pro Tempore replied, then clarified that the rule applies to the gallery.

Mr. Speaker, Delegate Hanshaw in the Chair

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 220)**, and there were, including pairs—yeas 70, nays 28, absent and not voting 2, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Burkhammer

Nay: Lovejoy

Nays: Barach, Barrett, Bates, Capito, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Higginbotham, Hornbuckle, Lovejoy, Pack, Pushkin, Queen, Reed, Riley, Rowe, Skaff, Thompson, Walker, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2174) passed.

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

Com. Sub. for H. B. 2174 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act of 2021; prohibiting the relocation, removal, alteration, renaming, rededication, or other disturbance of any statue, monument, memorial, nameplate, or plaque which is located on public property and has been erected for, or named, or dedicated in honor of certain historical military, civil rights, natural disasters or accidents, Native American events, figures, and organizations, historical religious significance; permitting any citizen of this state to petition the governmental entity that has control of a statue, monument, memorial, nameplate, or plaque; permitting a citizen a mechanism to petition the West Virginia State Historical Preservation Office to remove a statue, monument, memorial, nameplate, or plaque in certain circumstances; prohibiting any person from preventing the governmental entity having responsibility for maintaining the items, structures, or areas from taking proper measures to protect, preserve, care for, repair, or restore the items, structures, or areas; and authorizing the West Virginia State Historic Preservation Office to grant waivers under certain circumstances."

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

H. B. 2496, Relating to assessments of real property; 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. 221**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Sypolt.

Absent and Not Voting: Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2496) 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 H. B. 2499, Tax reduction for arms and ammo manufacturing; 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. 222**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Doyle, Fleischauer, Kimes and Walker.

Absent and Not Voting: Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2499) 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 H. B. 2633, Creating the 2021 Farm Bill; 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. 223**), and there were—yeas 97, nays none, absent and not voting 3, with absent and not voting being as follows:

Absent and Not Voting: Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2633) passed.

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

H. B. 2742, Providing explicit authority to process an online driver's license or identification renewal or reissuance when the applicant needs to update the address; 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. 224**), and there were—yeas 97, nays none, absent and not voting 3, with absent and not voting being as follows:

Absent and Not Voting: Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2742) passed.

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

H. B. 2777, Repeal municipal amusement tax; 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. 225**), and there were—yeas 88, nays 9, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bridges, Doyle, Hansen, Hornbuckle, Pushkin, Rowe, Thompson, Walker and Young.

Absent and Not Voting: Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2777) passed.

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

H. B. 2782, Repeal domestic animal tax; on third reading, coming up in regular order, was read a third time.

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

On this question, the yeas and nays were taken (**Roll No. 226**), and there were—yeas 58, nays 39, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Anderson, Barach, Bates, Boggs, Brown, Diserio, Doyle, Espinosa, Evans, Fleischauer, Fluharty, Garcia, Graves, Griffith, Hansen, Hornbuckle, Householder, Jennings, D. Kelly, J. Kelly, Linville, Lovejoy, J. Pack, Pethtel, Pushkin, Queen, Rowan, Rowe, Skaff, Storch, Sypolt, Thompson, Walker, B. Ward, Williams, Worrell, Young, Zukoff and Hanshaw (Mr. Speaker).

Absent and Not Voting: Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the motion prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 227**), and there were—yeas 76, nays 21, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Garcia, Griffith, Hansen, Hornbuckle, J. Kelly, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2782) passed.

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

H. B. 2808, Remove salt from list and definition of “mineral” for severance tax purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 228**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Kimes and Zatezalo.

Absent and Not Voting: Brown, Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2808) 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 H. B. 2823, Exempting buildings or structures utilized exclusively for agricultural purposes from the provisions of the State Building Code; 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. 229**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Brown, Burkhammer, Ellington, Kessinger and Queen.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2823) passed.

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

H. B. 2914, To remove certain ex officio, voting members from the Archives and History Commission and update formatting; 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. 230**), and there were—yeas 92, nays 3, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Pushkin, Walker and Young.

Absent and Not Voting: Brown, Burkhammer, Ellington, Kessinger and Linville.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2914) passed.

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

H. B. 3130, Relating to elimination of sunset provisions concerning towing rates; on third reading, coming up in regular order, was reported by the Clerk.

Delegates Capito asked and obtained unanimous consent to amend the bill on third reading, and the rule was suspended to permit the offering and consideration of such.

On motion of Delegates Capito and Hanshaw (Mr. Speaker), the bill was amended on page 1, section 2b, line 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. COMMON CARRIER BY MOTOR VEHICLES

§24A-2-2b. Rule-making authority; establishing rates for recovering, towing, hauling, carrying, or storing wrecked or disabled vehicles; complaint process; and required Legislative Audit.

(a) On or before July 1, 2016, the Commission shall promulgate rules to effectuate the provisions of this article: Provided, That no rules which are promulgated under the authority granted in this section may require a wrecker company to:

(1) Permit the registered owner or any other person to access the towed vehicle in any manner whatsoever unless and until the registered owner or his or her designee has remitted to the wrecker company all fees and charges which have been lawfully assessed by the wrecker company and for which the registered owner is responsible; or

(2) Destroy or otherwise dispose of a vehicle which has been abandoned by its owner. Provided, however, That the Commission may promulgate rules governing the procedures by which a wrecker company may sell a vehicle which has been abandoned by its owner.

(b) The rules promulgated pursuant to the provisions of this section shall describe:

(1) Factors determining the fair, effective, and reasonable rates levied by a carrier for recovering, towing, hauling, carrying, or storing a wrecked or disabled vehicle. The commission shall consider, but shall not be limited to:

(A) Tow vehicle(s) and special equipment required to complete the recovery/or tow;

(B) Total time to complete the recovery or tow;

(C) Number of regular and extra employees required to complete the recovery or tow;

(D) Location of vehicle recovered or towed;

(E) Materials or cargo involved in recovery or tow;

(F) Comparison with reasonable prices in the region;

(G) Weather conditions; and

(H) Any other relevant information having a direct effect on the pricing of the recovery, towing, and/or storage of a recovered or towed vehicle;

(2) The process for filing a complaint, and the review and investigation process to ensure it that each is fair, effective, and timely: Provided, That in any formal complaint against a carrier relating to a third-party tow, the burden of proof to show that the carrier's charges are just, fair, and reasonable shall be upon the carrier;

(3) The process for aggrieved parties to recover the cost, from the carrier, for the charge or charges levied by a carrier for recovering, towing, hauling, carrying, or storing a wrecked or disabled vehicle where the commission determines that such charge or charges are not otherwise just, fair, and/or reasonable; and

(4) The process to review existing maximum statewide wrecker rates and special rates for the use of special equipment in towing and recovery work to ensure that rates are just, fair, and reasonable: Provided, That the commission shall generally disapprove hourly and flat rates for ancillary equipment.

(c) All carriers regulated under this article shall list their approved rates, fares, and charges on every invoice provided to an owner, operator, or insurer of a wrecker or disabled motor vehicle.

~~(d) The rules promulgated pursuant to this article shall sunset on July 1, 2021, unless reauthorized.~~

~~(e) On or before December 31, 2020, the Legislative Auditor shall review the rules promulgated by the Public Service Commission under this section. The audit shall evaluate the rate-making policy for reasonableness, the complaint process for timeliness, the penalties for effectiveness, and any other metrics the Legislative Auditor deems appropriate. The Legislative Auditor may recommend that the rule be reauthorized, reauthorized with amendment, or repealed."~~

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 231**), and there were—yeas 57, nays 39, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barach, Boggs, Bridges, Bruce, Conley, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Gearheart, Graves, Griffith, Hanna, Hansen, Holstein, Hornbuckle, Horst, J. Kelly, Kimble, Kimes, Lovejoy, Miller, Nestor, Pethtel, Phillips, Pushkin, Rowe, Skaff, Storch, Thompson, Tully, Walker, Wamsley, G. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Brown, Burkhammer, Ellington and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3130) passed.

On motion of Delegates Capito and Hanshaw (Mr. Speaker), the title of the bill was amended to read as follows:

H. B. 3130 - "A Bill to amend §24A-2-2b of the Code of West Virginia, 1931, as amended, relating to prohibiting the Public Service Commission from promulgating rules or regulations requiring wrecker companies to permit the registered owner of a towed vehicle to access the vehicle without a fee to retrieve his or her personal property; to restricting the Public Service Commission from promulgating rules requiring wrecker companies to destroy abandoned vehicles in lieu of selling such vehicles; eliminating the sunset provisions for rules promulgated concerning towing rates; to eliminating the provision relating to review of those rules by the legislative auditor; and other technical corrections."

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. 156, Authorizing Department of Homeland Security to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

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

"ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF HOMELAND SECURITY TO PROMULGATE LEGISLATIVE RULES.

§64-6-1. Fire Commission.

The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of ~~§29-3-5b~~ §15A-11-5 of this code, relating to the Fire Commission (standards for the certification and continuing education of municipal, county, and other public sector building code officials, building code inspectors, and plans examiners, 87 CSR 07), is authorized.

§64-6-2. Fire Marshal.

The legislative rule filed in the State Register on August 13, 2020, authorized under the authority of §15A-10-5(a) of this code, relating to the Fire Marshal (standards for the certification and continuing education of municipal, county, and other public sector building code officials, building code inspectors, and plans examiners, 103 CSR 06), is authorized with the following amendment:

On page six, after subdivision 8.1.a, by adding a new subdivision 8.1.b to read as follows: 'Each inspector, during the inspection, shall maintain and have readily available the current provisions in paper or electronic format of the appropriate standard for the relevant discipline available for review. The Code Official is responsible for ensuring that this is done, and that the inspector shall inform the building owner or agent, in writing, of the specific violation of the code by number and or title.'

§64-6-3. State Emergency Response Commission.

(a) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §15-5A-5 of this code, relating to the State Emergency Response Commission (emergency planning and community right-to-know, 55 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §15-5A-5 of this code, relating to the State Emergency Response Commission (emergency planning grant program, 55 CSR 02), is authorized with the following amendments:"

On page 1, section 2, by striking out all of subsection 2.4;

And,

By renumbering the remaining subsection.

The bill was then ordered to third reading.

Com. Sub. for S. B. 160, Authorizing Department of Revenue to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 4, by striking out all of section four.

By renumbering the remaining sections.

And,

On page 5, section 7, line 3, by striking §11-5C-5(b) and inserting in lieu thereof "11-1C-5(b)".

The bill was then ordered to third reading.

Com. Sub. for S. B. 182, Authorizing miscellaneous agencies and boards to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk, 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. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on August 27, 2020, 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 August 27, 2020, authorized under the authority of §19-16-6 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 December 23, 2020, relating to the Commissioner of Agriculture (West Virginia Seed Law, 61 CSR 09), is authorized.

(c) The legislative rule filed in the State Register on August 17, 2020, authorized under the authority of §19-2B-3 of this code, relating to the Commissioner of Agriculture (inspection of meat and poultry, 61 CSR 16), is authorized.

(d) The legislative rule filed in the State Register on July 27, 2020, authorized under the authority of §19-9-2 of this code, relating to the Commissioner of Agriculture (poultry litter and manure movement into primary poultry breeder rearing areas, 61 CSR 28), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §19-16-3a 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 December 22, 2020, relating to the Commissioner of Agriculture (seed certification program, 61 CSR 39), is authorized.

(f) The legislative rule filed in the State Register on September 21, 2020, authorized under the authority of §19-22E-8 of this code, relating to the Commissioner of Agriculture (WV-exempted dairy farms and milk and milk products processing rules, 61 CSR 40), is authorized.

§64-9-2. Auditor.

The legislative rule filed in the State Register on September 17, 2020, authorized under the authority of §12-3-10 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 19, 2020, relating to the Auditor (standards for requisitions for payment issued by state officers on the Auditor, 155 CSR 01), is authorized with the following amendments:

On page 2, subsection 2.15., by striking the word “or” and following the acronym “(PRC)”, by inserting the following, “, or WIRE”;

On page 4, subdivision 3.1.3., after the word “signature.” by adding a new sentence to read as follows, “Alternative certifications may be approved by the Auditor if required by business processes.”;

On page 10, by inserting a new subsection 12.2. to read as follows:

“12.2. The auditor may approve alternative documents if necessitated by business processes.”;

And,

On page 10, subsection 13.1., following the words “For all nonrecurring wires, the”, by inserting the following, “State Treasurer’s Office (STO)”.

§64-9-3. Board of Funeral Service Examiners.

(a) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-6-6 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 18, 2020, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice, courtesy card holders, and funeral establishment requirements, 6 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of §30-6-6 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 18, 2020, relating to the Board of Funeral Service Examiners (crematory requirements, 6 CSR 02), is authorized with the following amendments:

On page 3, after paragraph 4.1.1.6. by adding a new subdivision 4.1.3. to read as follows:

“4.1.3. An applicant must attend a crematory operator certification program approved by the Board prior to submitting an application. The completion certificate must be submitted with the registration application.”;

And,

On page 21, Subdivision 22.5.3., by striking out the words “or courtesy card holder”.

(c) The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of §30-6-6 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 18, 2020, relating to the Board of Funeral Service Examiners (fee schedule, 6 CSR 07), is authorized with the following amendment:

On page 3, Subdivision 4.2.2., by striking out the words “three hundred fifty dollars (\$350.00)” and inserting in lieu thereof the words “two hundred seventy five dollars (\$275.00)”

§64-9-4. Board of Hearing Aid Dealers.

The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §30-26-3 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 December 1, 2020, relating to the Board of Hearing Aid Dealers (rule governing the West Virginia Board of Hearing Aid Dealers, 8 CSR 01), is authorized.

§64-9-5. Board of Landscape Architects.

(a) The legislative rule filed in the State Register on August 27, 2020, authorized under the authority of §30-22-7 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

December 1, 2020, relating to the Board of Landscape Architects (registration of landscape architects, 9 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-22-7 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 December 23, 2020, relating to the Board of Landscape Architects (application for waiver of initial licensing fees for certain individuals, 9 CSR 04), is authorized.

§64-9-6. Livestock Care Standards Board.

The legislative rule filed in the State Register on August 21, 2020, authorized under the authority of §19-1C-4 of this code, relating to the Livestock Care Standards Board (livestock care standards, 73 CSR 01), is authorized.

§64-9-7. Board of Medicine.

The legislative rule filed in the State Register on June 24, 2020, authorized under the authority of §30-3-7 of this code, relating to the Board of Medicine (registration to practice during declared state of emergency, 11 CSR 14), is authorized.

§64-9-8. Municipal Pensions Oversight Board.

The legislative rule filed in the State Register on August 7, 2020, authorized under the authority of §8-22-18a of this code, modified by the Municipal Pensions Oversight Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 17, 2020, relating to the Municipal Pensions Oversight Board (exempt purchasing, 211 CSR 02), is authorized.

§64-9-9. Board of Occupational Therapy.

The legislative rule filed in the State Register on August 10, 2020, authorized under the authority of §30-28-7 of this code, relating to the Board of Occupational Therapy (telehealth practice requirements, definitions, 13 CSR 09), is authorized.

§64-9-10. Board of Osteopathic Medicine.

(a) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §30-14-14 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 23, 2020, relating to the Board of Osteopathic Medicine (licensing procedures for osteopathic physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on June 22, 2020, authorized under the authority of §30-14-14 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 23, 2020, relating to the Board of Osteopathic Medicine (emergency temporary permits to practice during states of emergency or states of preparedness, 24 CSR 09), is authorized.

§64-9-11. Board of Pharmacy.

(a) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-5-7 of this code, 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 August 26, 2020, authorized under the authority of §60A-3-301 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, 2020, relating to the Board of Pharmacy (Uniform Controlled Substances Act, 15 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2020, 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, 2020, relating to the Board of Pharmacy (board of pharmacy rules for continuing education for licensure of pharmacists, 15 CSR 03), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §60A-8-9 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, 2020, relating to the Board of Pharmacy (licensure of wholesale drug distributors, third-party logistics providers, and manufacturers, 15 CSR 05), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2020, 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, 2020, relating to the Board of Pharmacy (Controlled Substances Monitoring Program, 15 CSR 08), is authorized.

(f) The legislative rule filed in the State Register on September 4, 2020, 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, 2020, relating to the Board of Pharmacy (board of pharmacy rules for immunizations administered by pharmacists and pharmacy interns, 15 CSR 12), is authorized.

§64-9-12. Board of Physical Therapy.

(a) The legislative rule filed in the State Register on October 19, 2020, 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 December 18, 2020, relating to the Board of Physical Therapy (general provisions for physical therapist and physical therapist's assistants, 16 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 28, 2020, 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 December 16, 2020, relating to the Board of Physical Therapy (fees for physical therapist and physical therapist's assistants, 16 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on October 19, 2020, 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 December 21, 2020, 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 August 28, 2020, 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 December 16, 2020, relating to the Board of Physical Therapy (fees for athletic trainers, 16 CSR 06), is authorized.

§64-9-13. Board of Professional Surveyors.

The legislative rule filed in the State Register on August 24, 2020, 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 November 19, 2020, relating to the Board of Professional Surveyors (examination and licensing of professional surveyors in West Virginia, 23 CSR 01), is authorized.

§64-9-14. Real Estate Commission.

The legislative rule filed in the State Register on August 24, 2020, authorized under the authority of §30-40-8 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 11, 2020, relating to the Real Estate Commission (licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business, 174 CSR 01), is authorized.

§64-9-15. Board of Respiratory Care.

The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §30-34-6 of this code, modified by the Board of Respiratory Care to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 17, 2020, relating to the Board of Respiratory Care (criteria for licensure, 30 CSR 01), is authorized.

§64-9-16. Secretary of State.

(a) The legislative rule filed in the State Register on June 23, 2020, authorized under the authority of §3-1-48 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2020, relating to the Secretary of State (loan and grant programs under the Help America Vote Act for the purchase of voting equipment, election systems, software, services, and upgrades, 153 CSR 10), is authorized.

(b) The legislative rule filed in the State Register on June 25, 2020, authorized under the authority of §39-4-25 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2020, relating to the Secretary of State (guidelines and standards for electronic notarization, 153 CSR 45), is authorized.

§64-9-17. Bureau of Senior Services.

The legislative rule filed in the State Register on August 25, 2020, authorized under the authority of §16-5P-6 of this code, modified by the Bureau of Senior Services to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 30, 2020, relating to the Bureau of Senior Services (shared table initiative for senior citizens, 76 CSR 06), is authorized with the following amendments:

On page 1, subsection 1.1., by striking out "Share tables are tables or stations where food service staff, senior citizens, and volunteers may return unopened prepackaged items, whole fruit and unopened beverage items they choose not to eat. These food and beverage items are then available to other senior citizens who may need additional nutritional servings.";

On page 1, section 2, by adding a new subsection 2.6 to read as follows:

“2.6. “Sharing tables” are tables or stations at senior centers or other locations where congregate meals are provided to senior citizens where senior citizens may return unopened prepackaged items, whole fruit and unopened beverage items they choose not to eat. These food and beverage items are then available to other senior citizens who may need additional nutritional servings.”;

On page 2, section 3, by striking out all of subsection 3.1 and inserting in lieu thereof the following:

“3.1. Any unopened pre-packaged items, including, but not limited to pretzels, crackers, bags of fruits and vegetables stored in a cooling bin, wrapped whole fruit, such as apples and bananas and unopened milk which has been stored in a cooling bin maintained at 41 degrees Fahrenheit or below may be distributed at a sharing table. Nutrition providers shall be aware of and comply with all Federal, state, and local laws, rules, regulations, and codes regarding standards for the preparation and distribution of food and beverages.”;

On page 2, section 4, by striking out all of subsection 4.1. and inserting in lieu thereof the following:

“4.1. “Food and beverages which may be distributed under section three of this rule may be distributed at sharing table or to senior citizens who receive home-delivered meals.”;

On page 2, subsection 5.1. after the words “serving times or” by inserting the words “the food or beverage item”;

On page 2, subsection 5.1. by deleting the words “where the Federal and State standards have been maintained”;

On page 2, section 6, by striking out all of subsection 6.1 and inserting in lieu thereof the following:

“Senior centers or other locations where congregate meals are provided to senior citizens’ which receive, prepare, or donate food and beverages to a food bank or other nonprofit charitable organization under this rule, shall comply with and are subject to the Good Samaritan Food Donation Act, W.Va. Code §55-7D-1 *et seq.*”;

And,

On page 2, section 6, by striking out all of subsection 6.2.

On motion of Delegate Foster, the amendment offered by the Committee on Government Organization, was amended on page 4, section 1, line 21, by striking §19-22E-8 and inserting in lieu thereof §19-11E-8.

The amendment recommended by the Committee on Government Organization, as amended, was then adopted.

The being no further amendments, the bill was ordered to third reading.

Com. Sub. for H. B. 2026, Relating to the modernization of the collection of income taxes by adopting uniform provisions relating to the mobile workforce; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2796, Supplemental appropriation bill is to expire funds to the surplus balance of General Revenue and to supplement and increase an item of appropriation in the aforesaid account for the designated spending unit for expenditure during the fiscal year 2021; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2829, Providing for the amortization of annual funding deficiencies for municipal police or firefighter pension and relief funds; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2897, Expiring funds to the balance of the Department of Commerce; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2899, Making a supplementary appropriation to the Department of Commerce; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2920, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Laboratory Services Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 9, Continuing Licensed Racetrack Modernization Fund,

S. B. 10, Modifying racetrack licensing due date,

S. B. 305, Providing exemption from consumers sales and service tax for certain aircraft maintenance,

Com. Sub. for H. B. 2195, Relating to motor vehicle crash reports,

Com. Sub. for H. B. 2368, Mylissa Smith's Law, creating patient visitation privileges,

Com. Sub. for H. B. 2760, Relating to economic development incentive tax credits,

H. B. 2874, Extend the current veteran's business fee waivers to active duty military members, their spouses and immediate family members,

Com. Sub. for H. B. 2933, Anti-Discrimination Against Israel Act,

And,

H. B. 3010, To extend the special valuation method for cellular towers to towers owned by persons not subject to regulation by the Board of Public Works,

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Ellington and Kessinger.

Miscellaneous Business

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

H. B. 3137: Delegate Barrett;

H. B. 3107: Delegate L. Pack;

H. B. 3191: Delegate Hott;

H. B. 3215: Delegate Pinson;

H. B. 3225: Delegate Worrell;

H. B. 3238: Delegate Worrell;

And,

H. B. 3293: Delegate Phillips.

At 2:50 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 22, 2021.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Monday, March 22, 2021

41st Day

11:00 A. M.

THIRD READING

- Com. Sub. for S. B. 156 - Authorizing Department of Homeland Security to promulgate legislative rules (STEELE) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 160 - Authorizing Department of Revenue to promulgate legislative rules (STEELE) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 182 - Authorizing miscellaneous agencies and boards to promulgate legislative rules (STEELE) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2026 - Relating to the modernization of the collection of income taxes by adopting uniform provisions relating to the mobile workforce (HOUSEHOLDER) (REGULAR)
- H. B. 2796 - Expiring funds from the WV Board of Examiners for Registered Professional Nurses and making a supplementary appropriation to the Department of Commerce, Development Office (Householder) (Effective From Passage)
- H. B. 2829 - Providing for the amortization of annual funding deficiencies for municipal police or firefighter pension and relief funds (HOUSEHOLDER) (REGULAR)
- H. B. 2897 - Expiring funds to the balance of the Department of Commerce (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- H. B. 2899 - Making a supplementary appropriation to the Department of Commerce (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)

H. B. 2920 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Laboratory Services Fund (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)

SECOND READING

Com. Sub. for S. B. 9 - Continuing Licensed Racetrack Modernization Fund (HOUSEHOLDER) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]

S. B. 10 - Modifying racetrack licensing due date (HOUSEHOLDER) (REGULAR)

S. B. 305 - Providing exemption from consumers sales and service tax for certain aircraft maintenance (HOUSEHOLDER) (REGULAR)

Com. Sub. for H. B. 2195 - Relating to motor vehicle crash reports (CAPITO) (REGULAR)

Com. Sub. for H. B. 2368 - Mylissa Smith's Law, creating patient visitation privileges (CAPITO) (REGULAR)

Com. Sub. for H. B. 2760 - Relating to economic development incentive tax credits (HOUSEHOLDER) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]

H. B. 2874 - Extend the current veteran's business fee waivers to active duty military members, their spouses and immediate family members (HOUSEHOLDER) (REGULAR)

Com. Sub. for H. B. 2933 - Anti-Discrimination Against Israel Act (CAPITO) (REGULAR)

H. B. 3010 - To extend the special valuation method for cellular towers to towers owned by persons not subject to regulation by the Board of Public Works (HOUSEHOLDER) (REGULAR)

FIRST READING

- Com. Sub. for S. B. 517 - Relating to sunset provisions of legislative rules (STEELE) (EFFECTIVE FROM PASSAGE) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- H. B. 2028 - Exempting veterinarians from the requirements of controlled substance monitoring (J. PACK) (REGULAR)
- H. B. 2029 - Relating to teacher preparation clinical experience programs (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2427 - Authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to behavioral health centers licensure (STEELE) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2982 - Relating to the Second Chances at Life Act of 2021 (CAPITO) (REGULAR)
- Com. Sub. for H. B. 3009 - Relating to the publication of county board financial statements (ELLINGTON) (REGULAR)
- H. B. 3045 - Relating to firefighter disability claims (CAPITO) (REGULAR)
- H. B. 3079 - Relating to exempting recovery residences from certain standards (J. PACK) (REGULAR)
- H. B. 3107 - Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders (CAPITO) (REGULAR)
- H. B. 3164 - Relating generally to kidnapping (CAPITO) (REGULAR)

H. B. 3177 - Removing expired, outdated, inoperative and antiquated provisions and report requirements in education (ELLINGTON) (REGULAR)

Com. Sub. for H. B. 3215 - Amending the requirements to become an elected prosecutor (CAPITO) (REGULAR)

HOUSE CALENDAR

Monday, March 22, 2021

41st Day

11:00 A. M.

THIRD READING

- Com. Sub. for H. B. 2630 - Requiring DEP to reimburse fines paid by towns, villages and communities in certain instances (HOUSEHOLDER) (REGULAR)
- Com. Sub. for H. B. 2675 - Relating to costs and interest in eminent domain condemnation proceedings (CAPITO) (REGULAR)
- H. B. 2741 - Relating to expansion of the alcohol test and lock program to offenders with a drug related offense (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2785 - Relating to public school enrollment for students from out of state (ELLINGTON) (REGULAR)

SECOND READING

- Com. Sub. for H. B. 2004 - Permit a licensed health care professional from another state to practice in this state through telehealth when registered with the appropriate West Virginia board (J. PACK) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2015 - Requiring rules of local boards of health to be approved by the county commission except in cases of a public health emergency (J. PACK) (EFFECTIVE FROM PASSAGE)
- H. B. 2536 - Relating to expressions of legislative intent regarding equivalent instruction time (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2628 - Relating to the removal of the prohibition on having ATMs in the area where racetrack video lottery machines are located (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2702 - To require all public high school students to complete and submit a free application for federal student aid (FAFSA) prior to graduation (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2792 - Relating to the expansion of direct access to natural gas service for new customers (ANDERSON) (REGULAR)
- Com. Sub. for H. B. 2959 - Relating to the financing of environmental pollution control equipment for coal-fired power plants (ANDERSON) (REGULAR)
- H. B. 3131 - Relating to correcting internal code references and citations (CAPITO) (REGULAR)

FIRST READING

- H. B. 2582 - Relating to creating a third set of conditions for the professional teaching certificate (ELLINGTON) (REGULAR)
- H. B. 2590 - Relating to the West Virginia Employment Law Worker Classification Act (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2620 - Relating to a departmental study of the child protective services and foster care workforce (J. PACK) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

MONDAY, MARCH 22, 2021

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON THE JUDICIARY
9:30 A.M. – ROOM 418 M**

**COMMITTEE ON RULES
10:45 A.M. – ROOM 434 M**

**COMMITTEE ON GOVERNMENT ORGANIZATION
1:00 P.M. – ROOM 215 E**

**COMMITTEE ON EDUCATION
1:00 P.M. – HOUSE CHAMBER**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470