



# WRAP-UP

THE OFFICIAL NEWSLETTER OF THE WEST VIRGINIA LEGISLATURE

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During the **2010 Regular Session**, a total of 2,079 bills were introduced (701 Senate bills, 1,378 House bills) and of those, 219 were passed by the Legislature. 12 bills were vetoed by the Governor (pg.29)

This Final Issue of Wrap-Up contains summaries of all bills passed during the 2010 Regular and Extended Budget Sessions.

## WEST VIRGINIA BUDGET BILL – Fiscal Year 2011 Committee Substitute for Senate Bill 213

### Overall Highlights

Overall, the costs of operating state government from this July 1 through June 30, 2011, will total \$18.3 billion, \$3.7 billion of which comes from state tax collections.

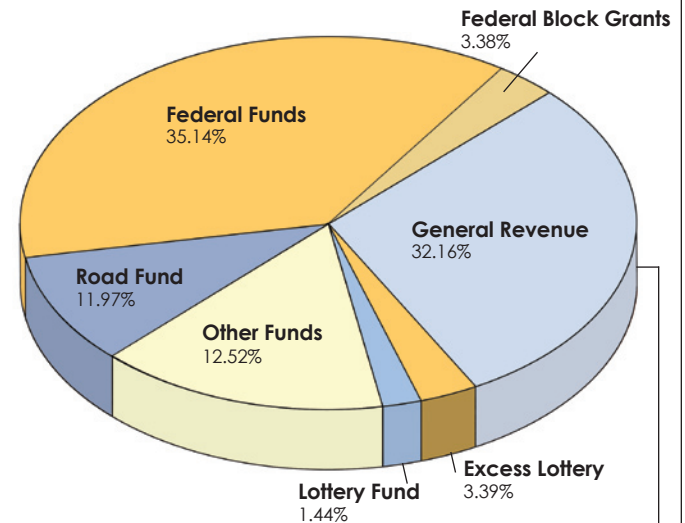
While spending from the General Fund is about \$46 million lower than FY 2010, the overall budget is about \$65 million higher, through the use of federal stimulus funds and planned payment increases to the Public Employees Retirement System over several years.

Included in stimulus fund spending is backfilling cuts in public education (\$87 million) and higher education (\$26 million).

The Division of Highways budget includes a line of \$140 million called “Federal Economic Stimulus II.” This is money the state doesn’t have, but expects. The \$140 million, therefore, is simply spending authority should the money become available.

Based on bills passed during the session, the budget includes three new programs: \$400,000 for five new drug courts and \$1,681,720 for dropout prevention programs, all from the bill raising the dropout age and creating the High School Graduation Improvement Act; and \$365,729 for Jacob’s Law,

### Total Budget, FY 2011



### Total Appropriations

General Revenue	\$3,741,680,000
Road Fund	\$1,392,289,000
Special Revenue	\$1,456,817,902
Lottery	\$167,007,000
Excess Lottery	\$394,269,503
Federal Funds	\$4,088,736,401
Federal Block Grants	\$393,161,019
<b>Total</b>	<b>\$11,633,960,825</b>

### General Revenue ←

Education	\$1,799,145,973
Higher Education	\$404,270,437
Education & The Arts	\$32,070,634
Environment	\$7,925,591
DHHR	\$794,444,074
MAPS	\$341,237,600
Executive	\$43,143,500
Legislative	\$24,528,502
Judicial	\$118,906,192
Administration	\$70,215,217
Commerce	\$65,871,616
Tax & Revenue	\$29,622,628
Transportation	\$8,127,884
Claims	\$2,170,152
<b>Total</b>	<b>\$3,741,680,000</b>

Data provided by Senate Committee on Finance

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which establishes a pilot program to improve the process of placing children ages 4-10 in foster care.

The budget increases spending for programs for abused children and domestic violence by \$500,000 each. **VETOED \$250,000 for Child Advocacy Centers.**

Some of the major accomplishments also restored funding for seniors, veterans and libraries. **VETOED 5% for libraries.**

The budget includes an additional \$15 million for Medicaid waiver programs to provide in-home care to senior citizens and for people with developmental disabilities. **VETOED \$5.5 million for Aged & Disabled Waiver.**

Earlier in the session, legislators were told more than 900 seniors around the state are medically eligible for the program, but could not receive in-home care because there's not enough state funding. Advocates of the program say it ultimately saves the state money by allowing senior citizens to remain in their homes instead of moving into costly nursing homes.

Funding increases in the two waiver programs were an exception to the rule in the 2010-11 budget, as most agencies and divisions will absorb 5 percent spending cuts, compared to the current budget.

**The Conference Committee Version of the Budget Bill (SB 213) breaks down as follows:**

*(Data provided by Senate Finance Committee Staff)*

**General Revenue**

Public Education

Total state aid to schools for Public Education (including State Aid to Schools) is \$1,799,145,973, or 48.08% of general revenue appropriations.

The Local Share Appropriation was increased due to the receipt of certified assessments by the State Board of Education after the Governor's introduced bill (\$10.9 million), reducing the total basic state aid to schools.

Thirty percent of that overage has to be used in Step 7 of the School Aid Funding Formula – resulting in a net increase of \$7.5 Million for General Revenue Appropriation.

DHHR

Included two new items of appropriation for waiver programs. The waiver programs were funded with \$15 million in General Revenue Funds. **VETOED \$5.5 million for A&D Waiver.**

Higher Education

Increase for colleges and universities were included in two new activities to avoid reducing the amount of available federal stimulus money for higher education institutions. **VETOED.**

**Stabilization Funds Used in SB 213:**

	<b>2011</b>	<b>2010</b>
Public Education	\$89 million	\$80.5 million
Higher Education	\$28 million	\$21.1 million

Medicaid was cut but difference is made up by increased FMAP through Medicaid Trust Fund.

**Restorations/Improvements/Compromises in SB 213**

Judicial (Supreme Court) - \$400,000 for drug courts.

Agriculture - \$650,000 moved 4-H Camp Improvements from Local Economic Development. **VETOED.**

Development Office - \$1,750,000 for Techconnect WV, Tamarack Foundation, PGA Golf Tournament. **VETOED funds for Techconnect & Tamarack Foundation.**

Local Econ. Dev. Assistance - \$322,100 restored to FY 2010 appropriation and moved 4-H camps to Agriculture

English as a 2nd. Language - \$550,000 new item of appropriation. **VETOED.**

Grants for Licensed & Domestic Violence Programs & Prevention - \$2,000,000 current year \$2.5 million. Reduced to \$1.5 million, restored to \$2 million.

Higher Education - 2,100,000 increases to bases of Community and Technical Colleges for ongoing operating expenses. **VETOED.**

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**Governor's Line-Item Veto Summary**

The veto message had 55 line-item reductions. Totals:

General Revenue.....	\$16,356,101
Lottery .....	\$885,146
Special Revenue.....	\$7,100,000

### Abortion

**Senate Bill 597 (Ultrasound Images Before Abortions)** requires women undergoing abortions be offered the opportunity by practitioners to view ultrasound images of the fetus prior to the procedure. The healthcare professional is required to offer the opportunity to view the ultrasound at least one hour before performing the abortion.

### Acts

**Bill(s) related to this section:**

*Senate Bill 38 (Servicemembers Civil Relief Act), pg.20*

*Senate Bill 81 (Prescription Program Act), pg.23*

*Senate Bill 183 (Diesel-Powered Motor Vehicles Act), pg.21*

*Senate Bill 185 (Tax Credits), pg.27*

*Senate Bill 236 (Aquaculture Development Act), pg.29*

*Senate Bill 352 (WV Community Empowerment Transportation Act), pg.26*

*Senate Bill 507 (Vetoed - Innovative Mine Safety Technology Tax Credit), pg.28*

*Senate Bill 567 (Nonprofit Adventure and Recreational Activity Responsibility Act), pg. 23*

*House Bill 4188 (Anti-Criminal Street Gang Act), pg.9*

*House Bill 4312 (Tax Procedure and Administration Act), pg.28*

*House Bill 4374 (Caregivers Consent Act), pg.6*

### Agriculture

**House Bill 4201 (Livestock Care Standards Board)** creates the Livestock Care Standards Board for the purpose of establishing standards governing the care and well being of livestock in West Virginia. The board will consider such factors like best management practices for the care and well-being of the state's livestock and poultry, biosecurity, disease prevention, animal morbidity and mortality data, food safety practices, and the protection of local, affordable food supplies for consumers when establishing these standards. The board will have 13 members including the Commissioner of Agriculture.

**House Bill 4527 (Apiary Owner Liability)** limits the liability of apiary owners and operators.

**Bill(s) related to this section:**

*Senate Bill 236 (Aquaculture Development Act), pg.29*

*House Bill 4407 (Dog/Cat Rabies Vaccinations), pg.3*

### Animals

**Senate Bill 336 (Restitution Value of Certain Animals)** authorizes the Division of Wildlife Resources to recover possession or restitution value of certain animals. Specifically, this bill would increase the penalties for the illegal taking of certain deer, based on antler spread, over and above the current \$200 forfeiture.

**Senate Bill 511 (Requiring Beaver Tags)** requires all trappers to bring each beaver or its skin to a game checking station within 30 days of the close of the regular season. The checking station will provide a tag for the beaver that will remain attached until it is processed into commercial fur.

**Senate Bill 512 (Trap Markings)** establishes requirements relating to trap markings. The bill requires trap markings be more fixed and more durable.

**House Bill 4407 (Dog/Cat Rabies Vaccinations)** updates the law regarding the rabies vaccinations of dogs and cats. Specifically, this bill would require a dog or cat to receive a rabies vaccination capable of providing immunity for three years instead of two years under the current law. Also, booster shots will be given the year after vaccination and every three years thereafter.

### Appropriations - Supplemental

**House Bill 4211 (Funding English as a 2nd Language)** provides supplemental funding for providing alternative programs for limited English proficient students. The bill



also grants the state Board of Education with rulemaking authority.

**House Bill 4668 (Supplementary Appropriations)** is a supplementary appropriations bill meant to supplement and increase items of appropriation to the crime victims compensation fund, the Department of Education and the Arts, Division of Culture and History and the Department of Environmental Protection to be used during fiscal year 2010.

**House Bill 4670 (Extra Fund Appropriation)** appropriating extra funds to the Department of Health and Human Services' Divisions of Health and Human Services, the Department of Revenue, the Bureau of Senior Services, the Higher Education Policy Commission and West Liberty University Land Sale Account. The total appropriated funding amounts to \$210,083,973.

**Audits & Auditing**

**Senate Bill 573 (Electronic Publishing of Audits)** allows audits to be published electronically. The audits would only be published electronically with notification to proper authorities in writing.

**Bill(s) related to this section:**  
*Senate Bill 232 (County Clerk & State Auditor Duties), pg.25*

**Banks & Banking**

**Senate Bill 381 (Division of Banking Employee Loans)** regulates the ability of Division of Banking employees to obtain certain loans. This bill specifically prohibits the commissioner, deputy commissioner and in-house legal counsel for the Division of Banking from borrowing, directly or indirectly, any sum of money from any entity that is under the jurisdiction of the division. In all other respects, the Division of Banking employees may obtain credit or borrow money from banking institutions that are regulated by the Division of Banking.

**Senate Bill 387 (Regulated Consumer Lenders)** relates to regulated consumer lenders. The measure requires these lenders to notify the West Virginia Division of Banking when a change of control or change in principals of the regulated consumer lender occurs. The notification must be given within fifteen days of the announcement of the change.

**Bill(s) related to this section:**  
*Senate Bill 385 (Requiring Financial Bonds), pg.5*  
*House Bill 4291 (Criminal Background Checks), pg.19*

**Boards & Commissions**

**Senate Bill 636 (Commission on Residential Placement)** reconstitutes and authorizes the Commission on Residential Placement to continue to meet at least quarterly and report back to the Legislative Oversight Commission on Health and Human Resources Accountability before December 1, 2010 with any recommendations.

**House Bill 4039 (Marshall County Park and Recreation Board)** increases the number of persons permitted to be appointed to the Marshall County Park and Recreation Board to up to 12 members. The county commission will appoint members of the board.

**House Bill 4140 (Board of Physical Therapy)** increases membership of the Board of Physical Therapy from five to seven, with the two new members being a Physical Therapist Assistant and a civilian. The bill also adds the requirement that an applicant to be a licensed Physical Therapist cannot be an alcohol or drug abuser, however, if an applicant is an active recovery program they may be considered for a license by the board.

**House Bill 4142 (Requiring Sanitarian Licensure)** requires all sanitarians to be licensed, certified or permitted by the State Board of Sanitarians, which is established under the board. The board replaces the Board of Registration for Sanitarians on July 1, 2010. All sanitarians will be required to have a bachelor's degree and a successful completion of a 300-hour sanitarian's training course.





**House Bill 4525 (Coal Mine Health and Safety Board)** makes changes to the composition, powers and responsibilities of the board of Coal Mine Health and Safety.

**House Bill 4623 (Adds Members to Equal Pay Commission)** adds six members to the Equal Pay Commission – three members from the House of Delegates and three members from the Senate. The Speaker of the House will appoint five total members, the Senate President will appoint a total of five members, and three state employee representatives will be appointed for a total of 13 members of the Commission. Originally, the Commission was made up of seven members.

**Bill(s) related to this section:**

- Senate Bill 230 (Optometry), pg.24*
- Senate Bill 388 (Municipal Planning Comm. and Zoning Appeals Boards), pg.22*
- Senate Bill 391 (County BOE Eligibility), pg.10*
- House Bill 4036 (Judicial Vacancy Advisory Commission), pg.8*
- House Bill 4144 (Clarifies Practice of Veterinary Medicine), pg.24*
- House Bill 4201 (Livestock Care Standards Board), pg.3*
- House Bill 4248 (Financial Reviews for Charities), pg.5*
- House Bill 4615 (Political Subdivisions & Worker’s Comp.), pg.29*
- House Bill 4630 (Appraisal Fee Refunds), pg.18*
- House Bill 4669 (Innovation Zone Exemptions), pg.11*

**Bonds**

**Senate Bill 70 (General Levy Rate)** states a county or municipality that issues bonds and enacts sufficient levies to pay for these bonds pursuant State Code does not have to factor in the revenue from these levies when annually determining the general levy rate for the county. The bill also provides that counties, municipalities and boards of education, in determining the amount of payments reported on required statements regarding bonded indebtedness incurred upon a vote of the people prior to the adoption of the Tax Limitation Amendment, are to deduct from total debt service due on any outstanding bonds, the amount of credit payment scheduled to be received by the United States of America.

**Senate Bill 229 (SBA Bond Issuance)** allows the School Building Authority to issue certain outstanding bonds and pay debt service on bonds with funds distributed from State Excess Lottery Fund.

**Senate Bill 237 (Lottery Revenue Bonds)** authorizes county commissions, municipalities and educational boards who receive lottery revenues to issue bonds. These bonds will be secured through the lottery revenues and may be used to construct public projects, such as the renovation, construction, and maintenance of public buildings.

**Senate Bill 385 (Requiring Financial Bonds)** requires county’s public money to be placed under bond if it exceeds the amount insured by the federal government.

**House Bill 4037 (Federal Subsidy Bonds)** allows the State, any political subdivision of the State, and any other authorized governmental entity to issue “federal subsidy bonds.” A “federal subsidy bond” is financial aid given by the government, which will be exempt from taxes. The bill includes within the definition of federal subsidy bonds certain “Build America Bonds” authorized under the American Recovery and Reinvestment Act of 2009.

**Buildings**

**Bill(s) related to this section:**

- House Bill 4026 (Higher Education Capital Facilities), pg.10*

**Charitable Organizations**

**House Bill 4248 (Financial Reviews for Charities)** defines “audit” and “financial review” in relation to the solicitation of charitable funds. It also raises the exemption from filing audits and registering, as well as requiring financial reviews for charitable organizations that raise between \$100,000 and \$200,00 in donations.

### Child Welfare

**Senate Bill 349 (Child Care Center Emergency Plans)** requires licensed or registered child care centers to have a written plan for evacuation in the event of an emergency and makes it a point of investigation before a license is received.

**Senate Bill 533 (Prohibited Conduct)** makes it a felony for a parent, guardian, custodian or other person in a position of trust in relation to the child to knowingly procure another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is less than sixteen years of age.

**Senate Bill 610 (Out-of-School Time Programs Exemptions)** extends the statutory exemption to any out-of-school time programs that already meet established health and safety requirements. It further establishes a registry requirement in order to determine whether such programs qualify for an exemption.

**House Bill 4164 (Jacob's Law)** creates of a pilot program for the placement of children four to 10 years of age in foster care. The pilot sets up four specialized foster care homes in different regions of the state where children could meet with a team of experts and receive immediate evaluations and testing upon being pulled from their natural homes.

**House Bill 4374 (Caregivers Consent Act)** creates the Caregivers Consent Act which allows a caregiver who is not a parent, legal custodian or guardian of a minor to consent to health care for a minor through an affidavit. A caregiver must be at least 18 years old, is related by blood, marriage or adoption to the minor, or has resided with the minor continuously for at least six months. The Act is solely in regards to the minor's health care, and does not give the caregiver legal custody of the minor. Any false statements made under the affidavit carries a misdemeanor charge with a possible \$1,000 fine.

**Bill(s) related to this section:**

*Senate Bill 51 (Military Permanent Parenting Plan), pg.20*

*Senate Bill 636 (Commission on Residential Placement), pg.4*  
*House Bill 4531 (Shackling of Pregnant Inmates), pg.7*

### Claims

**Senate Bill 526 (Moral Obligations of the State)** directs payments of moral obligations of state agencies, approved by the Court of Claims. This is a companion to House Bill 4416.

**House Bill 4416 (Moral Obligations of the State)** declares certain claims against the state and its agencies to be moral obligations of the state. The bill contains two claims against the Division of Corrections and directs payments thereof. This is a companion to Senate Bill 526.

**Bill(s) related to this section:**

*House Bill 4339 (State Auditor), pg.15*

### Code Repealed/ Updated

**Senate Bill 436 (Updating Language)** updates the wording of the code by removing the Latin phrase "haec, verba viz" and replacing it with "these words verbatim."

**Senate Bill 457 (Adultery, Fornication and Lascivious Behavior)** repeals outmoded sections of the code that make adultery, fornication and persons who lewdly and lasciviously live together a misdemeanor.

**Senate Bill 648 (Repealing Outdated Code)** repeals outdated sections of the West Virginia code referring to education. The repealed sections include an article referencing the "West Virginia Share in Your Future Act" the State Teachers Retirement System.

**House Bill 4134 (Outdated State Law)** repeals outdated or non-utilized code sections.

### Communications

#### Bill(s) related to this section:

*Senate Bill 345 (Telecommunications Tax Study), pg.27*

### Corporations & Business Entities

**Senate Bill 696 (Limited Liability Partnerships)** updates registration requirements of limited liability partnerships as well as establishes consequences of administrative dissolution and reinstatement. To get a limited liability partnership, applicants must have an email address, which was previously not needed. Additionally, the annual notice and fee for partnerships are now due between January 1 and July 1.

**House Bill 4582 (Non-Resident Vendor Bid Preference)** permits non-resident vendors bidding on the purchase of commodities or printing by the Purchasing Division or by a state agency and is certified as a small, women or minority-owned business, then that non-resident vendor will be offered the same bid preferences already made available to resident vendors.

#### Bill(s) related to this section:

*House Bill 4285 (Licensing Mortgage Brokers), pg.24*

*House Bill 4335 (Business Registration Tax), pg.28*

### Corrections

**Senate Bill 218 (Parole Eligibility for Non-Violent Offenders)** creates accelerated parole eligibility for certain non-violent offenders. The inmate becomes eligible upon completion of a program based upon a risk and needs assessment. The bill also requires the Division of Corrections and the Parole Board to develop legislative rules for accelerated parole programs.

**House Bill 4171 (Criminogenic Risk and Need Assessments)** encourages the use of criminogenic risk

and need assessments for all persons sentenced to the custody of the state Division of Corrections. Additionally, the bill would require the Parole Board to review available criminogenic risk and need assessments when making parole determinations. A criminogenic risk produces or tends to produce crime, such as an addiction to alcohol being one of the most criminogenic substances in America.

**House Bill 4531 (Shackling of Pregnant Inmates)** requires correctional facilities, regional jails and juveniles under the custody of division of juvenile services to assure that pregnant inmates will not be restrained between the start of the second trimester of pregnancy and the end of pregnancy. The bill provides that the inmate can be restrained in a matter reasonably necessary if it's deemed that she poses a threat of escape, a safety threat to herself, the public, staff or the fetus. The bill also provides that before such restraints are used, appropriate health care professionals will be consulted to assure that the manner of restraint will not pose an unreasonable risk of harm to the inmate or the fetus.

#### Bill(s) related to this section:

*House Bill 4081 (Department of Military Affairs and Public Safety), pg.26*

### County Commissions

#### Bill(s) related to this section:

*House Bill 4309 (Wastewater Authority Establishment in Hardy County), pg.20*

### Counties

**Senate Bill 471 (Circuit Clerk Copy Charge)** allows circuit clerks to raise the charge for transcripts, copies or other paper made by the clerk from 50 cents per page to \$1.00 per page.

### Bill(s) related to this section:

*Senate Bill 70 (General Levy Rate), pg.5*

*House Bill 4040 (School Calendar Requirements), pg.11*

*House Bill 4177 (Coal Severance Tax), pg.28*

*House Bill 4247 (Printed & Electronic Poll Books), pg.12*

*House Bill 4652 (VETOED - School Calendar Committee), pg.11*

## Courts

**Senate Bill 390 (Private Investigative and Security Services Penalties)** clarifies that, upon conviction, it is the court that assesses a fine for violations of private investigative and security services regulations.

**House Bill 4036 (Judicial Vacancy Advisory Commission)** creates a Judicial Vacancy Advisory Commission to assist the governor in fulfilling judicial vacancies. The commission will submit a list of between two and five candidates for vacant positions within 90 days of an open vacancy. The commission will consist of four public members and four attorneys, all of whom will be appointed by the governor.

**House Bill 4352 (Business Court Division)** authorizes the West Virginia Supreme Court of Appeals to create a Business Court Division within the circuit court of any judicial district with a population in excess of 60,000 according to the 2000 Federal Decennial Census. The West Virginia Supreme Court of Appeals will promulgate rules for the establishment and jurisdiction of the business court divisions within its circuit court system.

**House Bill 4541 (Circuit/Magistrate Courts Detaining Procedures)** allots circuit and magistrate courts to detain persons arrested or charged with a crime for up to 96 hours and commit those convicted of a crime for up to 14 days. It also ensures that county jails are not charged for a second day of incarceration until the inmate has been detained for over 24 hours. Additionally, those who are committed to the jail must pay a processing fee of 30 dollars.

### Bill(s) related to this section:

*Senate Bill 490 (Domestic Violence Definitions and Court Punishments), pg.9*

*House Bill 4130 (West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program), pg.12*

## Crimes

**Senate Bill 215 (Crimes Against VFFs and EMTs)** extends the crimes of malicious assault, unlawful assault, battery, and assault on government representatives and health care providers to include volunteer firefighters, emergency medical technicians, and those employed by or under contract to emergency medical services providers. It also increases the penalties for such assault crimes.

**Senate Bill 498 (Adult Social Services)** amends the civil definition of “neglect” by making it congruent with the state’s definition of “criminal neglect.” Neglect, as defined under this bill, is the unreasonable failure by a caregiver to provide the care necessary to assure the physical safety or health of an incapacitated adult. The bill also defines “caregiver” as an adult who has or shares physical possession or care of an incapacitated adult on a full-time or temporary basis, regardless as to whether they have been designated as a guardian or custodian by any contract, agreement or legal procedure. Caregiver includes health care providers, family members, and any other person who voluntarily accepts a supervisory role towards an incapacitated adult.

**Senate Bill 627 (Increased Penalties for Littering)** relates to the crime of littering and directs the Secretary of the Department of Environmental Protection to organize a statewide litter-reporting program. It also increases criminal and civil penalties for littering to at least \$100, but not more than \$1,000 for litter less than 100 pounds. For litter exceeding 100 pounds, the fine is between \$1,000 and \$2,000; for litter exceeding 500 pounds the fine is between \$2,500 and \$25,000. All of the fines also hold the person or persons guilty of a misdemeanor offense.

**House Bill 4188 (Anti-Criminal Street Gang Act)** creates the Anti- Criminal Street Gang Act. The bill essentially prohibits acts and activities in association with a criminal street gang. The provisions cover all bases from participation, recruitment, hazing those seeking to become





members, acts of vandalism, to forcing individuals into the organization.

**House Bill 4604 (Jerry Alan Jones Act)** increases the criminal penalties for crimes against law enforcement, probation and parole officers; establishing crime for disarming or attempting to disarm probation and parole officers. It establishes a new crime for reckless fleeing and increasing penalties for fleeing or attempting to flee in a vehicle and increasing penalties for fleeing or attempting to flee in a vehicle causing property damage, causing injury or causing death while attempting to flee.

**Bill(s) related to this section:**

- Senate Bill 362 (Withholding Information to Obtain Controlled Substances), pg.23*
- Senate Bill 457 (Adultery, Fornication & Lascivious Behavior), pg.6*
- Senate Bill 533 (Prohibited Conduct), pg.6*
- House Bill 4018 (Illegal Possession of Salvia Divinorum), pg.9*
- House Bill 4534 (Rendering Aid in Motor Vehicle Accidents), pg.22*
- House Bill 4541 (Circuit/Magistrate Courts Detaining Procedures), pg.8*

**Culture & History**

**Bill(s) related to this section:**

- House Bill 4668 (Supplementary Appropriations), pg.4*

**Disabilities**

**House Bill 4281 (VETOED - Intellectually Challenged)** changes terms in the State Code relating to “intellectually challenged” persons. The term “intellectually challenged” has been inserted in place of “mentally retarded.”

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**Domestic Relations**

**Senate Bill 490 (Domestic Violence Definitions and Court Punishments)** adds stalking to the definition of domestic violence as well as authorizes family courts to issue protective orders that cover animals in addition to people. Family Courts are also able to issue year-long protective orders and a misdemeanor offense has been established for the third and subsequent violations of the protective order.

**House Bill 4354 (Seizure of Weapons)** authorizes law enforcement to seize weapons possessed by domestic violence respondents who are in violation of temporary protection orders, permanent orders and divorce protection orders.

**House Bill 4361 (Sharing Domestic Violence Information)** removes code section that prohibits the state of West Virginia from sharing domestic violence information with other governments and agencies. This includes the federal government. The bill also expands the term “law enforcement agency” to include the Department of Health and Human Resources.

**Drugs & Drug Paraphernalia**

**Senate Bill 514 (Controlled Substances Monitoring Act)** modifies and clarifies the controlled substances that are subject to reporting when a prescription is filled or when a controlled substance is dispensed by a medical service provider.

**House Bill 4018 (Illegal Possession of Salvia Divinorum)** establishes that possession of a mixture or preparation intended for human consumption containing salvia divinorum is unlawful. Salvia divinorum is a leafy herb that is reported to produce varying effects ranging from a sense of calm to a hallucinatory state. Possession will result in a misdemeanor offense punishable by a fine of up to \$1,000, confinement of 90 days to six months, or both, unless a licensed physician or pharmacist prescribes the substance.

### Economic Development

**Senate Bill 41 (Revise Procedures for Community Expansion Projects)** revises certain procedures related to creation or expansion of a community enhancement district, the vesting period for an approved land development plan and plat, and construction of a project and clarify the applicability of certain statutory provisions to such construction under certain circumstances.

**Senate Bill 169 (VETOED - Criteria for Loans for Tourism Projects)** provides that the Economic Development Authority, in developing criteria for loans to a tourism project, will not require any specific number of jobs be created by the project, meet any specific job compensation levels, or specific employee benefits. A “tourism project” is defined as a commercial undertaking that receives, or projects to receive, more than 75 percent of its revenue from nonresident sources and is not a retail operation.

#### Bill(s) related to this section:

*Senate Bill 42 (Revised Municipal Economic Opportunity Development District Act), pg.22*

### Education

**Senate Bill 391 (County BOE Eligibility)** corrects a numbering error in State Code relating to county board of education members’ eligibility

**Senate Bill 499 (CTC Name Changes)** changes the names of the Community and Technical College at West Virginia University Institute of Technology to Bridgemont Community and Technical College, Marshall Community and Technical College to Mountwest Community and Technical College and West Virginia State Community and Technical College to Kanawha Valley Community and Technical College.

**Senate Bill 553 (TRS/TDCS Purchase of Full Credit)** extends the time certain members of the Teachers Retirement System can purchase full credit for service

in the Teachers Defined Contribution System. This bill applies to members who transferred and provided a signed verification of cost for service credit purchase form by June 30, 2009 to the Consolidated Public Retirement Board, but were unable to complete the purchase of the one and one-half percent contribution or the paperwork involved.

**Senate Bill 611 (Tech Park)** removes the requirement that the offices of the Higher Education Policy Commission, the Vice Chancellor for Administration and the West Virginia Council for Community and Technical College Education be located in Charleston, West Virginia.

**Senate Bill 631 (Adopting Textbooks and Other Instructional Material)** updates the process in adopting textbooks and other instructional material and technologies in order to give county school boards more flexibility in adopting vendor updated print and electronic instructional resources.

**House Bill 4026 (Higher Education Capital Facilities)** repeals certain provisions of state code concerning higher education facilities and replaces them with new provisions. The bill repeals certain specific duties of governing boards. It also eliminates condemnation rights, execution of contracts of those boards. Certain obligations concerning capital construction, repair duties and the authority of certain state institutions from selling certain properties and lease back provisions have also been eliminated. New provisions include tuition and fee increases, review and approval of capital project planning, financing, management and maintenance, acquisition, sale, transfer, exchange, leases, conveyance and condemnation of real property, construction and operation of capital facilities. A capital maintenance fund for each state higher education institution is also established under this bill.

**House Bill 4031 (Regional Education Service Agencies)** allows a reduction in the foundation allowance for regional education service agencies (RESAs) when the appropriation for other state agencies and the Department of Education are reduced. The reduction has to be the in the same percentage as the reduction for the Department of Education, and the allowance has to be restored for any fiscal years after the reduction occurs.



**House Bill 4040 (School Calendar Requirements)** provides greater flexibility for county school boards to meet the requirement that there be 180 instructional days in the annual school calendar. The bill also requires that county boards create an icy conditions and emergencies plan designed to guarantee an instructional term for students of no less than 180 separate instructional days.

**House Bill 4145 (Student Veterans Services)** requires higher education institutions establish and implement measures to assure that veterans enrolled in the institutions receive services and are provided facilities appropriate for their unique needs, that student veterans completed programs of study and earn degrees, and that the institutions become veteran-friendly by actively and effectively providing academic and social support and assistance to student veterans. Some of the measures to be included are; the establishment of veteran-friendly community and technical college degree programs, grant academic credit for Armed Forces experiences and establish and sponsor an organization for student veterans on campus and encourage other veteran-friendly organizations as well.

**House Bill 4436 (Educational Assessments and Instructional Programs)** provides discretion to schools that meet AYP standards by allowing these schools to choose instructional programs of their choice to promote student learning. Schools that meet AYP standards are not required by the state or county to employ any instructional program, with the WESTEST 2, the Alternative Performance Task Assessment, the Online Writing Assessment, and the National Assessment of Educational Progress being the exceptions and required.

**House Bill 4512 (School Bus Operator Qualifications)** strengthens the qualifications for school bus operators. After July 1, 2010, all persons employed for the first time in a position with this classification title or in a multi-classification position that includes this title must have five years of experience working in the transportation department of a county board of education. Experience working in the transportation department shall consist of serving as a bus operator, bus aide, assistant mechanic, mechanic, chief mechanic, in a clerical position within the transportation department.

**House Bill 4593 (H.S. Graduation Rates)** it increases the maximum compulsory school attendance age from 16 to 17 years, beginning with the 2011-2012 freshman class, and decreases from 10 to 5 the un-excused absences allowed. Authorizes up to 5 additional Juvenile Drug Courts and requires county boards to develop plans to improve retention and increase graduation rates. Additionally, it increases the School Aid Formula allocation for alternative education from \$12 to \$18 per student.

**House Bill 4652 (VETOED - School Calendar Committee)** provides for a school calendar committee in each county comprised of proportional representation of teachers, administrators and service personnel to prepare school calendar options for selection of the calendar by a county-wide vote of the employees. The committee is to have 7 to 11 members nominated and elected in the same manner as the respective staff development councils for professional and service personnel and one member selected by and representing the county superintendent.

**House Bill 4669 (Innovation Zone Exemptions)** allows certain schools to be exempted from statutes granted to innovation zones. Piedmont Elementary School will be allowed to give their specialist teachers a planning period before and after school for one hour, three days a week. They will also be able to have a greater number of students in their physical education and music classes, and to plan for them to meet in professional learning communities. Putnam County High Schools including Buffalo High School, Hurricane High School, Poca High School, Winfield High School and Putnam Career and Technical Center will be allowed to establish a structured program for freshmen one day before the beginning of the year. They will also be allowed to give their teacher three hours a month to work in professional learning communities. Nellis Elementary School will be able to expand the membership of its local school improvement council. Cabell County Schools including Cabell County Career Technical Center, Cabell Midland High School and Huntington High School will be allowed to raise compulsory school attendance age to 18 years old. They will also be allowed to develop a beginning teachers induction program at the county level.

**Bill(s) related to this section:**  
*Senate Bill 543 (Energy and Water Savings Revolving Loan Fund*

*Program and PROMISE rules for HEPC), pg.14*  
*Senate Bill 633 (Local Gov't Investments), pg.18*  
*Senate Bill 648 (Repealing Outdated Code), pg.6*  
*House Bill 4211 (Funding English as a 2nd Language), pg.3*

### Elections

**House Bill 4130 (West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program)** establishes the West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program, which provides for the public funding of campaigns for the West Virginia Supreme Court of Appeals to be implemented for the 2012 primary election and the 2012 general election. The program would be funded through attorney fees, special court fees, and funds from the Purchasing Card Administration Fund. Candidates participating in the pilot program would be required to raise a certain amount of campaign funds to qualify for the program and receive public funds. Candidates accepting public funds would thereafter be prohibited from raising or spending money from private sources.

**House Bill 4247 (Printed & Electronic Poll Books)** removes the requirement that a printed poll book must accompany an electronic poll book and leaves it to the discretion of the county.

**House Bill 4589 (Military and Overseas Voter Empowerment Act)** modifies West Virginia Code to conform to the requirements of the Military and Overseas Voter Empowerment Act of 2009. The date that absentee ballot application forms must be mailed to persons on the absentee voting list is changed from 42 days before an election to 46 days before an election. When a voter does not specify whether he or she wishes to vote electronically or by mail, the clerk will choose one of the federally approved methods for the voter. Any form of electronic filing that is now or may in the future be approved by the federal government is acceptable. Instructions for the appropriate type of voting system must be sent to the voter.

**House Bill 4647 (Express Advocacy)** modifies the definition of “express advocacy” to make it consistent with

recent U.S. Supreme Court holdings. In response to the holding on the U.S. Supreme Court case of Citizens United v. FEC, the bill repeals the ban on corporate contributions and expenditures for political purposes. Finally, the bill also increases the number of persons who must receive a broadcast or nonbroadcast communication naming a clearly identified candidate before it can be considered as an electioneering communication.

#### Bill(s) related to this section:

*Senate Bill 339 (Correcting State Code for Voter Registration List), pg.27*

### Emergency Services

**House Bill 4143 (Emergency Medical Services Requirements)** establishes new requirements for emergency medical services. The bill establishes the powers and duties of the Commissioner of the Bureau of Public Health. The bill also establishes legislative rules relating to emergency medical services, including standards and requirements for certification and recertification of emergency medical services personnel.

**House Bill 4182 (Emergency Medical Services Retirement Act)** relates to the Emergency Medical Services Retirement Act. The bill provides an onset date for receipt of disability benefits and the termination of such benefits when I retiree refuses to submit to a medical exam or provide certification from a physician of continued disability.

### Energy

**Senate Bill 350 (Recycled Energy)** removes the term recycled energy from the definition of the term “alternative energy resources” and includes it in the definition of “renewable energy resource.” The effect of this change is to double the amount of credit toward the portfolio standard given for each kilowatt hour of electricity generated using recycled energy. The engrossed bill also removes the restriction requiring ethanol be produced from a source other than corn.





**Senate Bill 518 (WV Energy Resources)** requires the Division of Energy: to work with the President of the United States and his administration to develop a plan that would allow West Virginia to become the leader in transitioning the United States to a new energy future; to determine the best way for West Virginia to utilize its resources and any federal funding to develop the technologies that are necessary for such a transition; to clearly articulate West Virginia’s position on an energy solution for the United States that encompasses clean coal, natural gas, transtech energy technologies and renewable energy technologies; develop and distribute an informational program and policies that emphasize the importance of West Virginia energy resources and their positive impact on the eastern seaboard and the nation and to monitor legal challenges to the energy industries in the state and report on this to the Joint Committee on Government and Finance quarterly.

**Senate Bill 656 (Special Rates for Energy-Intensive Industrial Electric Power Consumers)** creates a new section of code that provides special rates for energy intensive industrial consumers of electric. “Energy intensive industrial consumer” refers to an industrial facility, plant or enterprise that has a contract demand of at least 50,000 kilowatts of electric power at its West Virginia facilities under normal operating conditions. The Public Service Commission will establish the special rates. In order to qualify for these special rates, the industrial consumer must have a contract demand of at least 50,000 kilowatts of power at its facilities, create or retain at least 25 full time jobs in the state, have invested no less than \$500,000 in fixed assets in the state, provide reasonable evidence that without the special rate the operation or continued operation of the industrial facility is threatened or not economically viable and provide reasonable evidence that the industry intends to operate in West Virginia for an extended period of time.

**Environmental Protection**

**Senate Bill 398 (Landfill Disposal of Electronic Devices)** establishes the prohibition of landfill disposal of certain electronic devices. These electronic devices include

computers, monitors, and television sets. The bill will take effect January 1, 2011.

**Senate Bill 496 (Environmental Protection Council)** adds a representative of the largest coal miner’s labor organization (UMWA) to the Environmental Protection Advisory Council. It authorizes the members of the council, by unanimous request to call meetings of the council. The council may, by majority vote, make recommendations for rulemaking to the Secretary of the Department of Environmental Protection. The Secretary is to consider the council’s recommendations when developing agency rules.

**House Bill 4277 (National Pollutant Discharge Elimination System Permits)** authorizes the Secretary of the Department of the Environmental Protection (DEP) to issue National Pollutant Discharge Elimination System permits. These permits, created under the federal Clean Water Act, controls water pollution by regulating point sources that discharge pollutants into the country’s waters.

**Bill(s) related to this section:**

*House Bill 4457 (Cemeteries), pg.25*

*House Bill 4668 (Supplementary Appropriations), pg.4*

**Estates & Trusts**

**Senate Bill 494 (Fiduciary Commissions)** provides for oversight of fiduciary commissioners by county clerks and county commissions. The fiduciary commissioner will report to the county clerk and will be responsible for filing reports to the county clerk each quarter.

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### Firearms

**Senate Bill 515 (VETOED - Firearms Purchasing and Licensing)** prohibits and punishes anyone, except law enforcement, from knowingly soliciting, persuading, encouraging or enticing a firearm or ammunition dealer or private seller to violate firearm laws. Punishments under this bill varies from misdemeanor charges of one year in jail or a \$5,000 fine, or both to a felony charge of three to ten years in a state correctional facility, fines of at least \$100,000, or both. The bill also conforms certain definitions to federal law.

**House Bill 4521 (VETOED - Firearms Sales Tax Holiday)** establishes the “Second Amendment Appreciation Act” which is an annual sales tax holiday on the purchase of firearms. The holiday will take place the first weekend in October.

### Firefighting & Prevention

**Senate Bill 635 (State Fire Code)** requires counties and municipalities to submit any local fire code provisions for the State Fire Commission’s review and approval if they are more stringent than the State Fire Code on or before July 1, 2010. This would not negate the application of a local fire code in the past for past construction, but failure to obtain approval on a prospective basis may affect the future enforceability of such local ordinances.

**House Bill 4155 (Fire Dept. Revenue)** permits revenues allocated to volunteer and part-time fire departments to be used for Workers’ Compensation premiums, certain life insurance premiums, educational training supplies and fire prevention promotional materials.

**House Bill 4166 (Firefighting Age Limits)** expands the age for firefighters over 35 years of age for persons already employed by another paid fire department.

**Bill(s) related to this section:**

*Senate Bill 215 (Crimes Against VFFs and EMTs), pg.8*

### Funds

**Senate Bill 543 (Energy and Water Savings Revolving Loan Fund Program and PROMISE rules for HEPC)** authorizes two legislative rules promulgated by the Higher Education Policy Commission and approved by Legislative Oversight Commission on Education Accountability (LOCEA). The first, the Energy and Water Savings Revolving Loan Fund Program, was created by statute in 2008 and is operating now under an emergency rule. The second makes changes to the PROMISE scholarship to bring the program into compliance with statutory changes. The changes to PROMISE also are in effect under an emergency rule.

**Bill(s) related to this section:**

*Senate Bill 238 (Mineral Rights Benefits), pg.20*

*Senate Bill 337 (Greyhound Industry), pg.14*

### Gaming Activities

**Senate Bill 337 (Greyhound Industry)** changes the way horse owners are compensated when they win races at West Virginia’s thoroughbred racetracks. The measure allows certain funds of the greyhound industry to be used for greyhound adoption programs including spaying and neutering.

**Senate Bill 577 (Clarifying Definition of “Raffle”)** clarifies that charitable raffles are limited to paper raffle tickets. Electronic or mechanical raffle ticket dispensers, raffle ticket readers or any other electronic device cannot be used. After July 1, 2010 anyone who operates a raffle without a license and is using the banned raffle devices will face one to three years in a correctional facility and fined no less than \$50,000 and no more than \$100,000 for each device in their possession. Those licensed in West Virginia may have his or her license revoked if they partake in using these machines, and the machines would be forfeited to the Tax Commissioner for destruction.

**Bill(s) related to this section:**

*Senate Bill 237 (Lottery Revenue Bonds), pg.5*

### Government Agencies

**Senate Bill 427 (Turnpike Authority Renamed)** renames and reorganizes the Parkways, Economic Development and Tourism Authority. Beginning July 1, 2010, the Authority's name would change to the West Virginia Parkways Authority. The membership is changed so that the seven public members appointed by the Governor must include at least two members representing each current Congressional district. The terms of the public members are to be shortened by three years to five-year terms. The Authority's powers are expanded to allow it to issue new parkway revenue bonds and to issue parkway revenue refunding bonds to finance parkway projects, except projects on the Turnpike after June 30, 2010, and to allow it to finance transactions to acquire, hold or lease real property. The term "parkway project" is expanded to bring in any road or portion of road in the state, whether contiguous or noncontiguous to the Turnpike. The Authority's powers are reduced by prohibiting it from constructing new tourism projects or new economic development projects. The Authority is still allowed to enter lease agreements, development agreements or other agreements with private companies allowing and providing for these companies to acquire, develop, construct and operate motels, lodging facilities or other business facilities on land owned by the Authority and located adjacent to the Tamarack project and facilities at Exit 45 of the Turnpike.

**Senate Bill 464 (Clarifies Provisions for Division of Personnel)** clarifies provisions relating to the functions of the Division of Personnel. The provisions requiring section chiefs and allowing the director to establish additional sections as necessary are removed from the statute.

**Senate Bill 583 (Office of Technology)** changes references to the Information Services and Communications Division to reflect the division's consolidation with the Office of Technology.

**Senate Bill 612 (Capital Improvement Projects)** authorizes the Governor to revise the certified lists of capital improvement projects for higher education or capital improvement projects at state parks, the State Capitol Complex, other state facilities and tourism sites that would receive funding from the proceeds of certain bonds issued by the Economic Development Authority

(EDA) and payable from the Education, Arts, Sciences and Tourism Debt Service Fund up to the time the bonds are sold. The State Lottery Fund provides funding for these bonds. The bill also removes the \$150 million cap on the amount of bonds that could be issued for those purposes and permit the EDA to sell bonds in any amount necessary to accomplish the purposes of the bonds within the limit of funds available for debt service.

**House Bill 4194 (Incorporating Division of Criminal Justice Services)** adds the Division of Criminal Justice Services to those agencies incorporated in and administered by the Department of Military Affairs. It also outlines the duties and powers of the Division of Criminal Justice Services.

**House Bill 4339 (State Auditor)** allows the State Auditor to enter into agreements with the United States Treasury's Financial Management Service. It also specifies the reduction and offset of payments for debt collections.

**House Bill 4557 (VETOED - Health and Human Resources Accountability)** expands the powers and duties of the Legislative Oversight Commission on Health and Human Resources Accountability. The Commission now has the authorization to review requests for proposals made by the Health and Human Resources Department. This bill only applies to requests for proposals greater than \$500,000.

#### Bill(s) related to this section:

*Senate Bill 238 (Mineral Rights Benefits), pg.20*

*Senate Bill 336 (Restitution Value of Certain Animals), pg.3*

*Senate Bill 665 (Uniform Health Care Forms), pg.17*

*House Bill 4416 (Moral Obligations of the State), pg.6*

*House Bill 4582 (Non-Resident Vendor Bid Preference), pg.7*

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### Governor - Bills Requested By

#### Bill(s) related to this section:

*Senate Bill 213 (Budget Bill), pg.1*

*Senate Bill 214 (Corporate Net Income Tax), pg.27*

*Senate Bill 215 (Crimes Against VFFs and EMTs), pg.8*

*Senate Bill 216 (Income Tax Terms), pg.27*

*Senate Bill 218 (Parole Eligibility for Non-Violent Offenders), pg.7*

*Senate Bill 219 (State Motor Vehicle Fleet), pg.21*

*Senate Bill 427 (Turnpike Authority Renamed), pg.15*

*House Bill 4031 (Regional Education Service Agencies), pg.10*

*House Bill 4034 (Vacant Building Registration Program), pg.22*

*House Bill 4035 (Electronic Filing of Taxes), pg.28*

*House Bill 4036 (Judicial Vacancy Advisory Commission), pg.8*

*House Bill 4037 (Federal Subsidy Bonds), pg.5*

*House Bill 4038 (Statutory Lien on Fire Ins. Proceeds), pg.19*

*House Bill 4040 (School Calendar Requirements), pg.11*

*House Bill 4130 (West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program), pg.12*

### Hazardous Materials

**House Bill 4187 (Hazardous Waste Facility Fee)** continues imposing an annual certification fee for facilities that manage hazardous waste. The collected fees are deposited into the Hazardous Waste Management Fee Fund and used for the required matching of federal grant programs supporting the hazardous waste program. The fee requirement first started in 2003, and will now continue until June 30, 2015.

### Health Care

**Senate Bill 122 (VETOED - Mental Health Treatment)** relates to mental health treatment. The bill increases the age of consent for refusal of mental health treatment from 12 to 18. The bill also clarifies that the state has no obligation to pay for voluntary hospitalizations.

**Senate Bill 365 (Requires Controlled Substance Databases)** requires pharmacies to provide access to

an online database for controlled substances (schedule II, III or IV) on or before July 1, 2011. The State Board of Pharmacy will keep this database. The Board is to delegate appropriate personnel to have access to the database. The bill also authorizes agents of the Chief Medical Examiner access to the controlled substance database for use in post-mortem exams.

**Senate Bill 372 (WV Medical Practice Act)** updates language in the West Virginia Medical Practice Act with current terminology. Surgery is defined more thoroughly in the bill by including the use of lasers, ionizing radiation, pulsed light and radio-frequency devices. Outdated language is also removed throughout the bill.

**Senate Bill 422 (Defibrillator Liability)** clarifies that chapter 16, article 4D, section 4 limits liability for anticipated operators of automated exterior defibrillators, unless that person's employment or profession is as a health care provider as defined in WVC §16-2D-2. Accordingly, an anticipated operator who is not a health care provider, such as a mall security guard, is only liable for damages if he or she acted with gross negligence.

**Senate Bill 483 (Health Maintenance Organization's)** authorizes Health Maintenance Organization's (HMO) to offer a point of service option. Specifically, they are authorized to offer a delivery system that permits an enrollee to receive services outside the panel of providers with which the HMO has a contractual arrangement. The bill also provides authority for the Office of the Insurance Commissioner to develop standards for a point of service option.

**Senate Bill 584 (Center for Nursing)** establishes the data collection responsibilities of the Center for Nursing and establishes that data submitted to the Center is confidential. The bill further amends this section by deleting a statutory provision regarding a loan repayment program that does not exist.

**Senate Bill 618 (Osteopathic Physician Assistants)** revises the definition of an osteopathic physician assistant and makes changes to licensure rules, as well as changes criminal penalties for those who use the title osteopathic physician assistant unlawfully.





**Senate Bill 664 (Protected Person’s Visitation)** addresses the social needs of a protected person with regard to visits with friends and family. It requires the guardian to arrange for, and report on, social activities and visits with friends or family, and allows the court or Mental Hygiene Commissioner to intervene and order otherwise if the guardian’s actions are not within the best interests of the protected person.

**Senate Bill 665 (Uniform Health Care Forms)** transfers the existing requirements for development of uniform health care administrative forms from the Health Care Authority to the Office of the Insurance Commissioner. The bill also updates legislative findings and removes the criminal penalty for violating the section and replaces it with an administrative fine levied by the Insurance Commissioner.

**House Bill 4138 (MRI Board)** clarifies the authority of the Medical Imaging and Radiation Therapy Technology Board of Examiners to work with the Board of Medicine regarding the regulation of the practice of radiology assistants.

**House Bill 4176 (Health Care Practitioners Credentialing)** establishes a single statewide credentialing verification of health care practitioners in West Virginia. A credentialing verification organization and a uniform recredentialing calendar is created under this bill. The credentialing organization will provide electronic access to the uniform credentialing application forms, which must be filled out by those health care practitioners seeking to be credentialed.

**House Bill 4425 (Pilot Program in Nursing Homes)** enables the Board of Registered Professional Nurses to develop a pilot program for unlicensed personnel to administer medicine in nursing homes. The program will include the development of a training program in conjunction with West Virginia Board of Practical Nurses and the West Virginia Health Care Association.

**Bill(s) related to this section:**

- Senate Bill 446 (Public Employees Survivor Health Insurance), pg.24*
- House Bill 2503 (Tattoo Risks), pg.24*
- House Bill 2773 (Selling Tobacco to Minors/Fines), pg.28*
- House Bill 4108 (Miscellaneous Rules), pg.26*
- House Bill 4164 (Jacob’s Law), pg.6*

- House Bill 4167 (Revoked License Assistance), pg.22*
- House Bill 4186 (Nursing Home Administrators), pg.24*
- House Bill 4557 (VETOED - Health and Human Resources Accountability), pg.15*

**Human Services**

**Bill(s) related to this section:**

- House Bill 4164 (Jacob’s Law), pg.6*

**Insurance**

**Senate Bill 449 (PEIA Preexisting Condition Limitations)** prohibits the imposition of preexisting condition limitations on employees under the West Virginia Public Employees Insurance Act, while limiting the occasions upon which employees may enroll or make benefit changes.

**House Bill 4128 (National Association of Insurance Commissioners)** adopts recent amendments to the National Association of Insurance Commissioners (NAIC) model regulation concerning the standards to be considered by the Insurance Commissioner in determining whether an insurer is in hazardous financial condition and to revise the corrective actions that the Commissioner may require of an insurer.

**House Bill 4260 (Insurance Adjusters)** relates to insurance adjusters. The bill allows an adjuster to designate a home state, which is the state of their residence or business. The bill also provides new provisions, including a new crop adjuster license and the qualifications to obtain this license. Also, the bill sets a requirement that adjusters must make notification of legal actions presented against them.

**House Bill 4273 (Professional Employer Organizations)** clarifies that the Insurance Commissioner is authorized to take the same regulatory actions against persons operating as Professional Employer Organizations without a license as she can take against persons acting as unlicensed insurers, as contained in the Unauthorized Insurers Act.



**House Bill 4299 (Retired Worker Premiums)** requires all retired employees who have not lived within West Virginia for at least the last five working years to pay the entire premium of the West Virginia Public Employees Insurance, unless their last place of employment willingly pays the premium.

**House Bill 4373 (Children’s Health Insurance Program)** eliminates a provision in the State Code so that any otherwise eligible, uninsured child is immediately eligible to immediately receive insurance under the Children’s Health Insurance Program (CHIP), regardless of whether they were previously covered under an employer provided insurance plan. Currently, if an uninsured child previously received insurance under an employer sponsored insurance plan, they are ineligible to receive insurance from CHIP for a period of 12 months after they received insurance under an employer sponsored insurance plan.

**House Bill 4630 (Appraisal Fee Refunds)** states that a licensee is not required to refund an appraisal fee that is collected and paid to an unrelated third-party appraiser unless required to be refunded under federal law.

**Bill(s) related to this section:**

- Senate Bill 394 (Electronic Insurance Coverage Checks), pg. 21*
- Senate Bill 442 (Public Employees Insurance Agency Finance Board), pg.25*
- House Bill 4038 (Statutory Lien on Fire Insurance Proceeds), pg.19*
- House Bill 4615 (Political Subdivisions & Worker’s Comp.), pg.29*

**Investments**

**Senate Bill 633 (Local Gov’t Investments)** allows local governments to invest public funds through the use of an insured cash sweep service where those deposits are made eligible for full FDIC insurance coverage. These deposits will be made with a designated state depository selected and authorized by the entity which may arrange for the redeposit of the funds through a deposit placement program. The program must meet certain conditions set forth in the legislation.

**Labor**

**House Bill 4359 (Requiring Local Workforce)** requires all construction projects greater or equal to \$500,000 to only employ workers from West Virginia, or a county no more than 50 miles away from the West Virginia border.

**Bill(s) related to this section:**

- House Bill 3301 (Division of Labor), pg.26*
- House Bill 4299 (Retired Worker Premiums), pg.18*
- House Bill 4577 (Elevator Inspections), pg.19*
- House Bill 4623 (Adds Members to Equal Pay Commission), pg.5*

**Languages**

**Bill(s) related to this section:**

- House Bill 4211 (Funding English as a 2nd Language), pg.3*

**Law Enforcement**

**Senate Bill 89 (Police and Deputy Chiefs)** requires all police chiefs and deputy chiefs to be reinstated to their previously held positions in the police department after they have finished their term as chief or deputy chief. It also allows a deputy police chief to be appointed if the respective city council approves the appointment.

**Senate Bill 435 (Radar & Laser Speed Detection Devices)** allows all municipal police departments to utilize radar and laser devices to detect the speed of vehicles and to have this evidence permitted as prima facie evidence in court. Officers using this type of evidence will be required to be trained and certified for using speed measuring devices, as established by the Governor’s Committee on Crime, Delinquency and Correction.

**Senate Bill 462 (State Police Age Requirements)** changes age qualifications for applicants seeking membership for the West Virginia State Police. The bill changes law to say applicants can be no older than 39 years old.



**House Bill 4291 (Criminal Background Checks)** eliminates duplicate criminal background investigations with both the West Virginia State Police and the Federal Bureau of Investigation for persons seeking bank charters or agencies.

**House Bill 4397 (VETOED - State Trooper Increase)** requires a plan be implemented to increase the number of troopers in the State Police to a minimum of 800 troopers by July 1, 2014.

**Bill(s) related to this section:**  
*House Bill 4604 (Jerry Alan Jones Act), pg.9*

**Legislature**

**Senate Bill 477 (Electronic Filing of State Agency Reports)** establishes a centralized filing system for reports required to be filed with the Legislature, Legislative Manager, Legislative Auditor, the President of the Senate and the Speaker of the House of Delegates, or the Joint Committee on Government and Finance and requires the reports to be filed electronically.

**Senate Bill 557 (Legislative Vacancies)** clarifies the procedures for filling vacancies in the State Legislature. Specifically, it clarifies the membership of the nominating committee when a delegate district covers all or part of more than one county.

**Bill(s) related to this section:**  
*House Bill 4623 (Adds Members to Equal Pay Commission), pg.5*

**Levies**

**Senate Bill 547 (School Board Levies)** corrects an inconsistency between two sections in West Virginia Code regarding school board levies. A school board must file a certified copy of the financial statement to the Auditor, not the Tax Commissioner, who will publish the statement immediately. The board also cannot enter any levy until it has been approved in writing by the Auditor as well. When

a levy is placed on the ballot for consideration during a primary election, the board shall reconvene and take action on the last day in May that is not a weekend or legal holiday.

**Liability**

**Bill(s) related to this section:**  
*Senate Bill 422 (Defibrillator Liability), pg. 16*  
*House Bill 4527 (Apiary Owner Liability), pg.3*

**Licenses**

**House Bill 4133 (Marriage and Family Therapy)** revises the licensing and eligibility requirements for practicing marriage and family therapy in West Virginia. Under this bill, a person who holds a license or other authorization to practice marriage and family therapy issued by another state and are determined by the board to be equivalent to West Virginia’s requirements is eligible for licensure.

**House Bill 4577 (Elevator Inspections)** establishes four classes of licenses for elevator mechanics including a license for employees of historic hotel resorts.

**Bill(s) related to this section:**  
*House Bill 4176 (Health Care Practitioners Credentialing), pg.17*

**Liens**

**House Bill 4038 (Statutory Lien on Fire Insurance Proceeds)** authorizes municipalities and counties to place liens on insurance proceeds that come from payments to insured owners for total losses of buildings to assure proper cleanup of the remaining debris. All property insurance companies are required to notify the municipality or county government that a total loss payment has occurred, and a

lien is placed on the insurance proceeds in the amount of \$5,000.00, or 10 percent of the policy limits, whichever is greater. The bill also establishes a process for attaching the lien and giving notice to in-state and out-of-state owners and provides how the lien will be released.

### Local Bills

**Senate Bill 445 (Fairmont City Council)** extends the time the Fairmont City Council can meet as a levying body for the purpose of presenting to the voters an election for an excess levy to fund the repair of Fairmont streets. The levying date will be set between March 7 - 28 and the third Tuesday in April until June 8, 2010.

**Senate Bill 548 (Boone County BOE)** extends the time the Boone County Board of Education can meet as levying body.

**House Bill 4309 (Wastewater Authority Establishment in Hardy County)** authorizes Moorefield, Hardy County Commission, and Hardy County's largest cooperate wastewater user to be allowed to create a wastewater authority for the purpose of constructing and operating a regional wastewater plant.

#### Bill(s) related to this section:

*Senate Bill 526 (Moral Obligations of the State), pg.6*

### Military Affairs

**Senate Bill 38 (Servicemembers Civil Relief Act)** adopts the Servicemembers Civil Relief Act into law. The Act establishes all benefits, rights and protections of the federal Servicemembers Civil Relief Act as West Virginia state law.

**Senate Bill 51 (Military Permanent Parenting Plan)** requires a permanent parenting plan to contain a provision concerning the custody of the child if either parent as a member of the

National Guard, a reserve component or an active duty component is mobilized, deployed or called to active duty.

**Senate Bill 574 (Pearl Harbor Day)** declares December 7, "Pearl Harbor Day," as a special memorial day to honor all West Virginians who fought in World War II.

**Senate Bill 596 (WV National Guard Exemptions)** exempts the Adjunct General and the West Virginia National Guard from state leasing and accounting requirements.

**House Bill 4504 (WV Code of Military Justice)** rewrites the West Virginia Code of Military Justice. This bill adopts the provisions and is modeled after the most recent version of the Uniform State Code of Military Justice, prepared by the National Guard Bureau, approved by the DoD with minor West Virginia state-specific provisions.

#### Bill(s) related to this section:

*House Bill 4145 (Student Veterans Services), pg.11*

*House Bill 4589 (Military & Overseas Voter Empowerment Act), pg.12*

### Mines & Minerals

**Senate Bill 238 (Mineral Rights Benefits)** authorizes the Public Land Corp. (PLC) to enter into leases for the development of minerals on behalf of the PLC, or any state agency, institution, or department. It also provides that any free gas or other natural resources derived from a transaction must be used to benefit the state agency, institution or department.

**Senate Bill 382 (Oil & Well Gas Drilling)** permits the Geological and Economic Survey to receive data with respect to core samples and expands the information regarding well cuttings from oil and gas well drilling.

#### Bill(s) related to this section:

*Senate Bill 350 (Recycled Energy), pg.12*

*Senate Bill 507 (Vetoed - Innovative Mine Safety Technology Tax Credit), pg.28*

*House Bill 4525 (Coal Mine Health and Safety Board), pg.5*





**Motor Vehicles**

**Senate Bill 183 (Diesel-Powered Motor Vehicles Act)** creates a new section of West Virginia Code relating to prohibiting diesel-powered motor vehicles engaged in commerce from excessive idling. No diesel-powered vehicle weighing over 10,000 pounds can remain running continuously for five minutes while parked. However, there are exceptions including if the vehicle is forced to idle because of on-highway traffic or if they must remain running in order to operate defrosters, heaters, air conditioners or cargo refrigeration equipment. Those refusing to concur with these new provisions will be charged with a misdemeanor and is subject to pay a fine of no less than \$150 and no more than \$300.

**Senate Bill 186 (DOT Administrative Law Judge Office)** creates a Department of Transportation Administrative Law Judge Office. The Office is to be headed by a Chief Administrative Law Judge, who is to be appointed by the Governor with the advice and consent of the Senate. The Chief Administrative Law Judge will have the authority to employ administrative law judges and other personnel that are necessary for the proper conduct of a system of administrative review of orders issued by the Department of Motor Vehicles (DMV). The bill also clarifies the effect of no contest pleas on license revocations or suspensions by providing that a plea of no contest does not constitute a conviction for the purposes of a DMV related license revocation.

**Senate Bill 219 (State Motor Vehicle Fleet)** establishes a Fleet Management Office within the Department of Administration that will manage all motor vehicles and aircraft owned or possessed by the state of West Virginia or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or authorities. The Secretary of Administration will also promulgate rules, including emergency rules, relating to the ownership, purchase, use, storage, maintenance and repair of all state vehicles.

**Senate Bill 354 (Traffic Crash Notification Procedures)** updates the terms and procedures for notification after traffic crashes and completion of the required reports by investigating law-enforcement officers.

**Senate Bill 394 (Electronic Insurance Coverage Checks)** authorizes the Department of Motor Vehicles to engage a vendor to electronically check vehicles titled in West Virginia for proper insurance coverage as required by law. The vendor will compare the insurance information provided by the vehicle owner to insurance company databases. The vendor will also monitor insurance cancellations to ensure continued coverage. Motorists failing to carry the required insurance will be subject to suspension.

**Senate Bill 396 (Commercial Driver’s License)** makes changes in regard to Commercial Driver’s License (CDL’s), which include federally mandated changes. Changes include expanding the authority to require criminal background checks be performed on any Division of Motor Vehicles employees who are involved in the driver licensing process and requires the completion of a skills test before obtaining a commercial driver’s license to operate vehicles equipped with air brakes.

**Senate Bill 649 (Motor Vehicle Search Procedures)** establishes procedures to protect motor vehicle operators in relation to the search of motor vehicles by law enforcement officers. The procedures require that the officer have probable cause or consent of the operator.

**Senate Bill 698 (Mini-Trucks)** establishes new requirements for the use of mini-trucks, including increasing the maximum mileage a mini-truck can travel for the purpose of transporting from 25 to 35 miles. The bill defines mini-truck as vehicles designed primarily for off-road use weighing approximately 1,800 pounds.

**House Bill 4167 (Revoked License Assistance)** requires the Department of Health and Human Resources, Division of Alcoholism and Drug Abuse to establish and administer a rehabilitation program for those whose licenses have been revoked due to driving under the influence of alcohol, controlled substances or drugs. The program will provide treatment for alcohol and substance abuse, provide

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psychological counseling, educate about the dangers of substance abuse while driving, and educate about defensive driving. It will be paid for by the Department of Health and Human Resources Safety and Treatment Fund, which is also established under this bill. The money for the new special revenue fund will come out of the Motor Vehicles Fee Fund.

**House Bill 4172 (Authorizes DMV Issue Special License Plates)** removes the prohibition of the Commissioner of the Division of Motor Vehicles from authorizing additional types of special license plates for members of certain organizations. It allows the Commissioner to issue the plates, after application by the organization. The organization seeking the plate must be non-religious, non-political and non-profit.

**House Bill 4524 (All-Terrain and Utility Terrain Vehicles)** revises the definition of “all-terrain vehicle” and includes a definition for “utility terrain vehicle”. “All-terrain vehicle” is defined as any motor vehicle designed for off-highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and handlebars for steering control and intended by the manufacturer to be used by a single operator or by an operator and no more than one passenger. “Utility-terrain vehicle” is defined as any motor vehicle with four or more low-pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control.

**House Bill 4534 (Rendering Aid in Motor Vehicle Accidents)** increases the criminal penalty for failing to stop and render aid after a motor vehicle accident. Specifically, if a person fails to stop and render aid and the motor vehicle accident results in the death of the person involved they may be charged with felony and fined not more than \$5,000 and/or imprisoned for not less than one year and not more than five. If a person fails to stop and render aid and the motor vehicle accident results in physical injury that person is guilty of a misdemeanor and will be fined not more than \$1,000 and/or imprisoned for not more than one year. The bill also names this section of the code, Erin’s Law.

**Bill(s) related to this section:**

- House Bill 4223 (School Bus Safety), pg.26*
- House Bill 4512 (School Bus Operator Qualifications), pg.11*

**Municipalities**

**Senate Bill 42 (VETOED - Revised Municipal Economic Opportunity Development District Act)** makes a number of revisions to the Municipal Economic Development District Act in order to enhance the Act’s ability to generate economic development within West Virginia. Revisions made to the Act include; defining the term “affordable housing,” allowing all municipalities to be eligible to create economic opportunity development districts, include remediation of former coal mining sites for purposes of development, allowing a municipality to establish reserves with prevailing capital market conditions instead of ordinary capital market conditions, requires the Development Office to determine whether the development should include a component of affordable housing, and allows the Development Office to decrease the minimum percentage of tax increment revenue deposited into the General Revenue Fund from 20 percent to 10 percent under certain circumstances.

**Senate Bill 388 (Municipal Planning Commissions and Zoning Appeals Boards)** relates to municipal planning commissions and municipal boards of zoning appeals. It specifies that the planning commission in a Class I, II, III shall have between five and 15 members and the planning commission for a Class IV town or village shall have between three and nine members.

**Senate Bill 669 (Teen Courts)** allows teen courts to be operated by municipalities. Specifically, it allows the juvenile to refer the truant juvenile for supervision by the probation office, in judicial circuits that have their own truancy programs, as an alternative to referring the juvenile to the Department of Health and Human Resources.

**House Bill 2663 (Parking Authority)** expands the power of municipal parking authority officers. It allows a municipality or parking authority to employ parking enforcement officers whose sole duties are to patrol and enforce municipal parking ordinances. Officers will be allowed to sign complaints and issues citations.

**House Bill 4034 (Vacant Building Registration Program)** allows a municipality to enact by ordinance a vacant building registration program. The owner of the registered property may be charged a fee assessed by the ordinance.



All fees collected will be used to improve public safety efforts, monitor and administer this ordinance, and repair, close, or demolish a vacant structure.

**Bill(s) related to this section:**

- Senate Bill 70 (General Levy Rate), pg.5*
- Senate Bill 89 (Police and Deputy Chiefs), pg.18*
- Senate Bill 435 (Radar & Laser Speed Detection Devices), pg.18*

**Natural Resources**

**Senate Bill 510 (DNR Fees)** extends the date of no fee increases for Division of Natural Resources licenses and stamps from January 1, 2011 to January 1, 2021.

**House Bill 3110 (VETOED - Conservation Officers)** changes the name of any Division of Natural Resources Conservation Officer to Natural Resources Police Officer as of July 1, 2010.

**Bill(s) related to this section:**

- Senate Bill 336 (Restitution Value of Certain Animals), pg.3*
- Senate Bill 382 (Oil & Well Gas Drilling), pg.20*
- House Bill 4110 (Bureau of Commerce), pg.26*
- House Bill 4559 (Forester Registry Requirements), pg.24*

**Parks & Recreation**

**Senate Bill 567 (Nonprofit Adventure and Recreational Activity Responsibility Act)** creates the Nonprofit Adventure and Recreational Activity Responsibility Act. The act creates rules for governing non-profit's responsibilities for liability of participants and providers of adventure/recreational activities. It requires non-profits to educate participants about the equipment needed, the characteristics of the activity, and whether certain disabilities will impair a participant's ability to successfully complete the activity.

**Bill(s) related to this section:**

- House Bill 4039 (Marshall County Park and Recreation Board), pg.4*

**Prescriptions & Medications**

**Senate Bill 81 (Prescription Program Act)** establishes the Prescription Program Act. Specifically, it requires the Board of Pharmacy to implement a statewide official tamper resistant prescription form. This bill sets forth specific security requirements for the form and practitioners are required to report loss, destruction, theft or unauthorized use of forms and to provide the board their control number to be used on the form for each individual provider.

**Senate Bill 362 (Withholding Information to Obtain Controlled Substances)** establishes in code that it is unlawful for a patient to knowingly withhold information from a practitioner that the patient has already obtained a prescription for a controlled substance in the same time period. This would be unlawful as an attempt to obtain a prescription for a controlled substance. The bill increases penalties by raising fines and increasing jail sentence from six to nine months.

**House Bill 2485 (Pharmacy Interns)** allows pharmacy interns to vend pseudoephedrine and other chemical precursors of methamphetamine. A pharmacy intern is defined as someone who holds a degree in pharmacy, but has not yet received a license so they are working under a licensed pharmacist.

**Bill(s) related to this section:**

- House Bill 4425 (Pilot Program in Nursing Homes), pg.17*

**View Legislation Online**

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### Professions & Occupations

**Senate Bill 230 (Optometry)** relates to the Board of Optometry and revises the code regulating the practice of optometry to bring it up to current standards. The bill sets up a more streamlined way to update rules and regulations for practicing optometrists.

**House Bill 2503 (Tattoo Risks)** requires all tattoo artists inform their patrons of the potential risk a tattoo may have with the clinical reading of a magnetic resonance imaging study, should the patron ever encounter a medical need for such a study. Written information must be given to the patron, which will be prepared by the State Department of Health.

**House Bill 3152 (Athletic Trainer Definitions)** defines the athletic trainer profession for the first time in West Virginia code history. It requires all persons using the title “athletic trainer” to be certified by the West Virginia Board of Physical Therapy, which is established under this bill. All athletic trainers must have a current certification from the National Athletic Trainers’ Association Board of Certification.

**House Bill 4144 (Clarifies the Practice of Veterinary Medicine)** relates to the Board of Veterinary Medicine. It updates terms and clarifies the scope of practice by a licensed veterinarian, as well as the registration of veterinary technology. It also establishes license, certificate, registration and permit requirements.

**House Bill 4186 (Nursing Home Administrators)** updates the law with respect to nursing home administrators. The bill decreases the number of board members from 11 to 8, with one member being an ex-officio nonvoting member. The remaining members of the board will consist of 5 licensed nursing home administrators and 2 citizen members, and will be appointed by the Governor with advice and consent of the Senate.

**House Bill 4285 (Licensing Mortgage Brokers)** relates to the licensing of residential mortgage brokers, lenders and loan originators by the Division of Banking. The bill sets standards for application fees, waiving of fees, education requirements and licensing for the Division.

**House Bill 4450 (Relates to Surveying and the Board of Professional Surveyors)** clarifies licensing and permit requirements for surveying, as well as the duties of the Board of Professional Surveyors.

**House Bill 4559 (Forester Registry Requirements)** clarifies the requirements to be certified as a registered forester. The potential forester must have a high school diploma, or its equivalent, a four-year degree accredited by the Society of American Foresters, and have two years related experience in the field of forestry. The person must also pass an exam approved by the Board of Forestry.

#### Bill(s) related to this section:

*House Bill 2485 (Pharmacy Interns), pg.23*

*House Bill 4128 (National Association of Insurance Commissioners), pg.17*

*House Bill 4133 (Marriage and Family Therapy), pg.19*

*House Bill 4138 (MRI Board), pg.17*

*House Bill 4176 (Health Care Practitioners Credentialing), pg.17*

*House Bill 4273 (Professional Employer Organizations), pg.17*

*House Bill 4425 (Pilot Program in Nursing Homes), pg.17*

### Public Employees

**Senate Bill 446 (Public Employees Survivor Health Insurance)** clarifies that surviving spouses and dependents of deceased public employees, who were active or retired, are entitled to be included in any comprehensive group health insurance coverage. The finance board determines the premium cost of the coverage.

### Public Service Commission

**Senate Bill 614 (High Voltage Transmission Lines)** adds additional notice requirements for the application to construct a new high voltage transmission line, namely that the applicant send notice by certified mail to all owners of real estate and to all operators that are currently producing oil or gas wells that lie within 1,000 feet of the center line on both sides of the proposed transmission line.





**Railroads**

**Senate Bill 527 (West Virginia State Rail Authority)** requires the West Virginia State Rail Authority to establish a state plan for rail transportation and local rail services. The authority is permitted to request input from freight and rail passenger associations.

**Real Property**

**Senate Bill 232 (County Clerk & State Auditor Duties)** transfers some of the duties of the county clerk relating to delinquent land sales to the State Auditor. Among other things, the bill establishes or increases various fees that may be charged for copies, recording documents, issuing certificates, and other similar services to be provided by the Auditor or the county clerk, depending upon who is performing the services.

**Senate Bill 376 (Mortgage Foreclosure Information)** simplifies the current process of collecting and publishing mortgage foreclosure information reported to county clerks by the trustees. Under the bill the Division will calculate and publish the total number of foreclosure sales statewide and by county. The fee for recording a trustee’s report of sale is reduced from \$40 to \$30 and \$20 of that fee is to be deposited into the county’s general revenue fund and \$10 of that is to be paid by the county clerk to the State Treasurer.

**Senate Bill 397 (Housing Index)** creates a single dwelling residential housing index, to be collected by the Tax Commissioner on or before January 1. The index will include the cost of all single dwelling residential housing in West Virginia.

**Senate Bill 401 (Reforms Procedures for Ad Valorem Property Taxes)** reforms and modernizes procedures and time frames for assessments of real and personal property, notices of assessments, and appeals of assessments. It provides special provisions for assessment of industrial and natural resources property. The bill also establishes the local board of assessment appeals to meet in the fall of the

tax year to which taxpayers may appeal as an alternative to the board of equalization and review which meets in February of the tax year. It authorizes a circuit court, upon an appeal from a board of equalization and review or a board of assessment appeals, to remand the case back to such board if the court finds the record below is inadequate.

**Senate Bill 595 (Land Development Plans)** extends the vesting period for subdivision and land development plans from January 1, 2010 to July 1, 2014.

**House Bill 4457 (Cemeteries)** clarifies procedures regarding the protection of graves at family cemeteries. It also enhances the opportunity for access to cemeteries on private land.

- Bill(s) related to this section:**
- Senate Bill 596 (WV National Guard Exemptions), pg. 20*
  - House Bill 4034 (Vacant Building Registration Program), pg.22*
  - House Bill 4038 (Statutory Lien on Fire Insurance Proceeds), pg.19*
  - House Bill 4450 (Relates to Surveying and the Board of Professional Surveyors), pg.24*
  - House Bill 4486 (Class II Property Taxes), pg.28*

**Retirement**

**Senate Bill 442 (Public Employees Insurance Agency Finance Board)** clarifies that the Public Employees Insurance Agency Finance Board is authorized to offset annual retiree premium increases with amounts held in the trust.

- Bill(s) related to this section:**
- Senate Bill 519 (Police and Fire Social Security Benefits), pg.27*
  - House Bill 4182 (Emergency Medical Services Retirement Act), pg.12*

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**Senate Bill 352 (WV Community Empowerment Transportation Act)** creates the West Virginia Community Empowerment Transportation Act. Specifically, the bill provides authority for counties, municipalities or other governmental unit or political subdivision of the state to acquire, construct, maintain, repair or improve transportation facilities. The bill also gives counties the authority to impose, administer, collect and enforce payment of voter-approved user fees to pay for or finance cost of transportation projects within their counties.

**House Bill 3301 (Division of Labor)** amends the Division of Labor rule verifying employees’ legal status. The bill also authorizes the labor commissioner to issue an order terminating undocumented employees. Each day the undocumented worker continues employment constitutes a separate violation.

**House Bill 4081 (Department of Military Affairs and Public Safety)** authorizes the Department of Military Affairs and Public Safety to promulgate legislative rules for the WV State Police, WV State Fire Commission, WV Division of Corrections and Division of Homeland Security and Emergency Management.

**Rulemaking**

**Senate Bill 240 (Department of Administration)** authorizes the Department of Administration to promulgate legislative rules relating to State owned vehicles.

**House Bill 4108 (Miscellaneous Rules)** includes administrative rules for miscellaneous agencies and boards. Among other things, it provides the WV Board of Examiners for Licensed Practical Nurses policies and procedures for the development and maintenance of education programs in practical nursing. The bill also increases the counseling board fees for the WV Board of Examiners in Counseling.

**Senate Bill 273 (Department of Environmental Protection)** authorizes the DEP to promulgate legislative rules. The agencies affected by these rules include the Division of Water and Waste Management, the Division Oil and Gas and the Division of Air Quality.

**House Bill 4110 (Bureau of Commerce)** authorizes the Bureau of Commerce to create administrative rules relating to the Division of Natural Resources.

**Senate Bill 286 (DHHR)** authorizes the Department of Health and Human Resources promulgate legislative rule relating to Health Care Authority.

**Senate Bill 291 (Department of Transportation)** includes administrative rules for the Department of Transportation. Specifically, it allows the Division of Motor Vehicles to cancel motor vehicle operating privileges and to establish guidelines for the low vision program. Also, the bill includes provisions for the West Virginia Division of Highways related to removal of obstructions from roadways, guidelines for licensing and regulating outdoor advertising and salvage yards, and for regulating roadside memorials.

**Safety**

**House Bill 4223 (School Bus Safety)** generally increases the safety of students that use the school bus. It increases the penalties for overtaking and passing a school bus that has stopped for the purpose of loading or unloading children. The bill also authorizes the mounting of cameras on school busses, and requests an educational campaign for bus safety.

**Senate Bill 407 (Department of Revenue)** authorizes the Directors of the West Virginia Health Insurance Plan to promulgate a legislative rule relating to preexisting conditions exclusion.

**Bill(s) related to this section:**  
*Senate Bill 507 (VETOED - Innovative Mine Safety Technology Tax Credit), pg.28*  
*House Bill 4167 (Revoked License Assistance), pg.22*  
*House Bill 4397 (VETOED - State Trooper Increase), pg.19*  
*House Bill 4504 (WV Code of Military Justice), pg.20*

### Secretary of State

**Senate Bill 339 (Correcting State Code for Voter Registration List)** corrects an invalid internal code reference in a section of the law relating to the Secretary of State's statewide voter registration list. Currently, the State Code provides for the implementation and maintenance of a single, official, statewide, centralized, interactive computerized voter registration list of every legally registered voter in the state. The bill amends the Code to refer to the correct provision of the West Virginia Code, which provides for confirmation notices for the systematic purging program.

**Senate Bill 453 (Electronic Publication of the State Register)** allows electronic publication of the state register to be the preferred format for publication by the Secretary of State's Office, and allow paper copies to be provided upon request for a fee.

**Senate Bill 624 (Filing Reports with Secretary of State)** changes filing requirements for all organizations filing annual reports. The bill requires a collection of e-mail addresses for filing purposes.

### Social Security

**Senate Bill 519 (Police and Fire Social Security Benefits)** extends Social Security benefits to Municipal Police Officers and Firefighters Retirement System members. The bill extends until October 1, 2011, the time period by which the participating employers in the Municipal Police Officers and Firefighters Retirement System have to submit a plan to the State Auditor to extend Social Security benefits to members of the retirement system.

### Sunset Legislation

**Senate Bill 604 (Extends Sunset Provision)** extends the sunset provision from 2010 to 2012 for modified mental

hygiene procedures implemented by the Supreme Court of Appeals.

### Taxation

**Senate Bill 185 (Tax Credits)** establishes two different tax credits. First, a tax credit is allowed for anyone who develops a patent in the state of West Virginia that is used in manufacturing process or product and has an agreement with West Virginia University or Marshall University pertaining to the development of the patent. Second, a tax credit is allowed for any person that uses a patent developed in West Virginia directly in a manufacturing process or product.

**Senate Bill 214 (Corporate Net Income Tax)** provides that for tax year 2009, the meaning of terms in the West Virginia statutes relating to corporate net income taxes will have the same meaning those terms have under federal statutes as amended during 2009. This bill incorporates changes in federal income tax law enacted in 2009 into the state corporate net income tax statutes.

**Senate Bill 216 (Income Tax Terms)** updates code relating to personal income tax. Included in this update is the term "federal adjusted gross income." These terms were updated for federal tax purposes.

**Senate Bill 345 (Telecommunications Tax Study)** mandates that the tax commissioner undertake a study of the telecommunications industry in order to make recommendations for amendments to the state telecommunications tax. The current telecommunications tax fails to account for modern business models, operational structures, technologies and fundamental economics of telecommunications. The Tax Commissioner will file a report with both the Governor and the Legislature on or before July 1, 2011 with recommended amendments to the telecommunications tax.

**Senate Bill 461 (Streamlined Sales and Use Tax Agreement)** updates the Streamlined Sales and Use Tax Agreement. It strikes unnecessary and outdated terms, and clarifies that the "Agreement" refers to all amendments



adopted by the governing board of the Streamlined Sales and Use Tax Agreement through January 31, 2010. It also creates a classification of registration of sellers making no sales for those vendors who did not make a sale in West Virginia in a previous year.

**Senate Bill 507 (VETOED - Innovative Mine Safety Technology Tax Credit)** creates a tax credit against the business franchise tax and the corporation net income tax for innovative mine safety technology for tax years beginning after December 31, 2010, and terminating December 31, 2013. The Mine Safety Technology Task Force is to compile a list of approved innovative mine safety technologies. The credit is equal to 50 percent of the qualified investment in safety technology equipment that at the time of its acquisition is on the list of approved innovative mine safety technology. The total amount of tax credit for any one taxpayer in one tax year may not exceed \$100,000.

**House Bill 4035 (Electronic Filing of Taxes)** sets a consistent threshold of \$10,000 tax liability to require taxpayers to file all taxes electronically and to require certain taxpayers to pay by electronic funds transfer. Additionally, it would require a tax return preparer who prepares at least 25 returns to file electronically and an employer with 50 or more employees to file withholding returns electronically.

**House Bill 4177 (Coal Severance Tax)** dedicates an additional five percent coal severance tax to the county of origin. It also provides permissible uses for the funds, such as economic development, infrastructure, job creation and road repair.

**House Bill 4312 (Tax Procedure and Administration Act)** amends the current State Code to add the word “not” to impose an addition to the tax owed of five percent of the amount of tax, if the failure to file a tax return is for not more than one month. It also restores original language omitted in a prior enactment.

**House Bill 4335 (Business Registration Tax)** clarifies requirements, exemptions and exceptions relating to the business registration tax and business registration certificate. It also clarifies that the tax is imposed for

each and every issuance, reissuance or reinstatement of a business registration certificate.

**House Bill 4486 (Class II Property Taxes)** requires the purchaser of any Class II (residential and farm) property auctioned for nonpayment of property taxes to supply the physical address for the subject property to the clerk, as a part of the requirements the purchaser must satisfy before a deed is issued to the purchaser. This information is used and relied upon by the clerk to issue the required notice of opportunity of the delinquent taxpayer and other interested parties to pay the delinquent taxes and redeem the property. The bill then requires the clerk to send a copy of the notice to redeem to the physical address of the subject property, whenever it is classified as a Class II property, in order to provide notice to the occupant.

**Bill(s) related to this section:**

- Senate Bill 401 (Reforms Procedures for Ad Valorem Property Taxes), pg.25*
- House Bill 4521 (VETOED - Firearms Sales Tax Holiday), pg.14*

**Tobacco**

**House Bill 2773 (Selling Tobacco to Minors/Fines)** increases the monetary penalties for selling tobacco products to minors from \$25 to \$100 for the first offense. For a second offense, the fine has increased from \$100-\$200 to \$250 - \$500. A third offense renders a fine from \$500 to \$750 if it occurs within two years of the first conviction. If a sale occurs within five years of the first conviction then a fine \$1,000 to \$5,000 will be rendered.

**Transportation**

**Bill(s) related to this section:**

- Senate Bill 352 (WV Community Empowerment Transportation Act), pg.26*



### Unemployment Compensation

#### Bill(s) related to this section:

*House Bill 4525 (Coal Mine Health and Safety Board), pg.5*

### Utilities

**Senate Bill 465 (Utility Service Disconnection)** eliminates the requirement that a Public Service District or municipality accept payment at the premises prior to discontinuance of service for a delinquent water or sewer bill. It also eliminates the requirement that a Public Service District or municipality must knock on a customer's door before disconnecting their service.

### Vendors

**Senate Bill 651 (VETOED - State Bid Preference)** provides a preference for current license or permit holders in obtaining bids to acquire and operate equipment under state programs offering them to match the bids submitted by newcomers.

### Water Resources

**Senate Bill 236 (Aquaculture Development Act)** creates the "Aquaculture Development Act" to recognize "aquaculture" as agriculture and encourage its development in West Virginia. "Aquaculture" is defined as the raising and use of aquatic species in controlled or selective environments for commercial purposes. The Department of Agriculture will be responsible for matters pertaining to aquaculture and will be given recommendations from the Aquaculture Advisory Board created under this act.

#### Bill(s) related to this section:

*House Bill 4309 (Wastewater Authority Establishment in Hardy County), pg.20*

### Workers Compensation

**House Bill 4459 (Occupational Pneumoconiosis Claim Extension)** extends the time for a dependant, following an employee's death, to file a claim for a workers compensation death benefit, when occupational pneumoconiosis is determined to be a cause of death, from one year to three years after the date of death.

**House Bill 4615 (Political Subdivisions and Worker's Compensation)** authorizes political subdivisions to no longer be required to obtain workers compensation from Brickstreet, but instead be allowed to establish risk pools to ensure worker's compensation. The Commissioner will propose rules, and once rules have been made effective, employers will be allowed to take applications for these pools.

#### Bill(s) related to this section:

*House Bill 4155 (Fire Dept. Revenue), pg. 14*

### Veto Messages (12)

Senate Bill 42 (Revised Municipal Economic Opportunity Development District Act), pg.22

Senate Bill 122 (Mental Health Treatment), pg.16

Senate Bill 169 (Criteria for Loans for Tourism Projects), pg.10

Senate Bill 507 (Innovative Mine Safety Technology Tax Credit), pg.28

Senate Bill 515 (Firearms Purchasing and Licensing), pg. 14

Senate Bill 651 (State Bid Preference), pg.29

House Bill 3110 (Conservation Officers), pg.23

House Bill 4281 (Intellectually Challenged), pg. 9

House Bill 4397 (State Trooper Increase), pg.19

House Bill 4521 (Firearms Sales Tax Holiday), pg.14

House Bill 4557 (Health and Human Resources Accountability), pg.15

House Bill 4652 (VETOED - School Calendar Committee), pg.11



**2010 - 2011  
Interim Committee Meeting Dates**

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**April 12-14**

Remaining Dates To Be Announced.

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