



# WRAP-UP

THE OFFICIAL NEWSLETTER OF THE WEST VIRGINIA LEGISLATURE

For information about your State Legislature, visit our Web site: [www.legis.state.wv.us](http://www.legis.state.wv.us)

Volume XXIII, Final Edition

April 24, 2012

During the 2012 Regular Session, a total of 2,029 bills were introduced (678 Senate bills and 1,351 House bills) and of those, 214 were passed by the Legislature. The Governor vetoed nine bills.

This Final Issue of Wrap-Up contains summaries of all bills passed during the 2012 Regular and Extended Budget Sessions.

## West Virginia Budget Bill

### Fiscal Year 2013

*Conference Committee Report for SB 160*

#### Budget Totals

General Revenue \$ 4,149,751,000

Road Fund 1,207,165,199

Other Funds 1,656,354,880

Regular Lottery 145,025,203

Excess Lottery 290,974,890

Federal Funds 3,792,019,112

Federal Block Grants 342,148,442

Total \$ 11,583,438,726

General Revenue Surplus Accrued 67,500,000

Grand Total \$ **11,650,938,726**

#### General Revenue Highlights

*Executive - Governor's Office*

- Includes a general revenue appropriation of \$176,000 for start up costs for the Herbert Henderson Office of Minority Affairs. Language is included transferring this appropriation to the Special Revenue "Minority Affairs Fund" which includes total spending authority



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of \$676,000 to allow for the expenditure of other gifts, grants or donations the office may receive.

#### Governor's Office Civil Contingent Fund

- Includes an appropriation of \$2 million (\$2 million reduction from introduced bill)

#### *Administration - Public Defender Services*

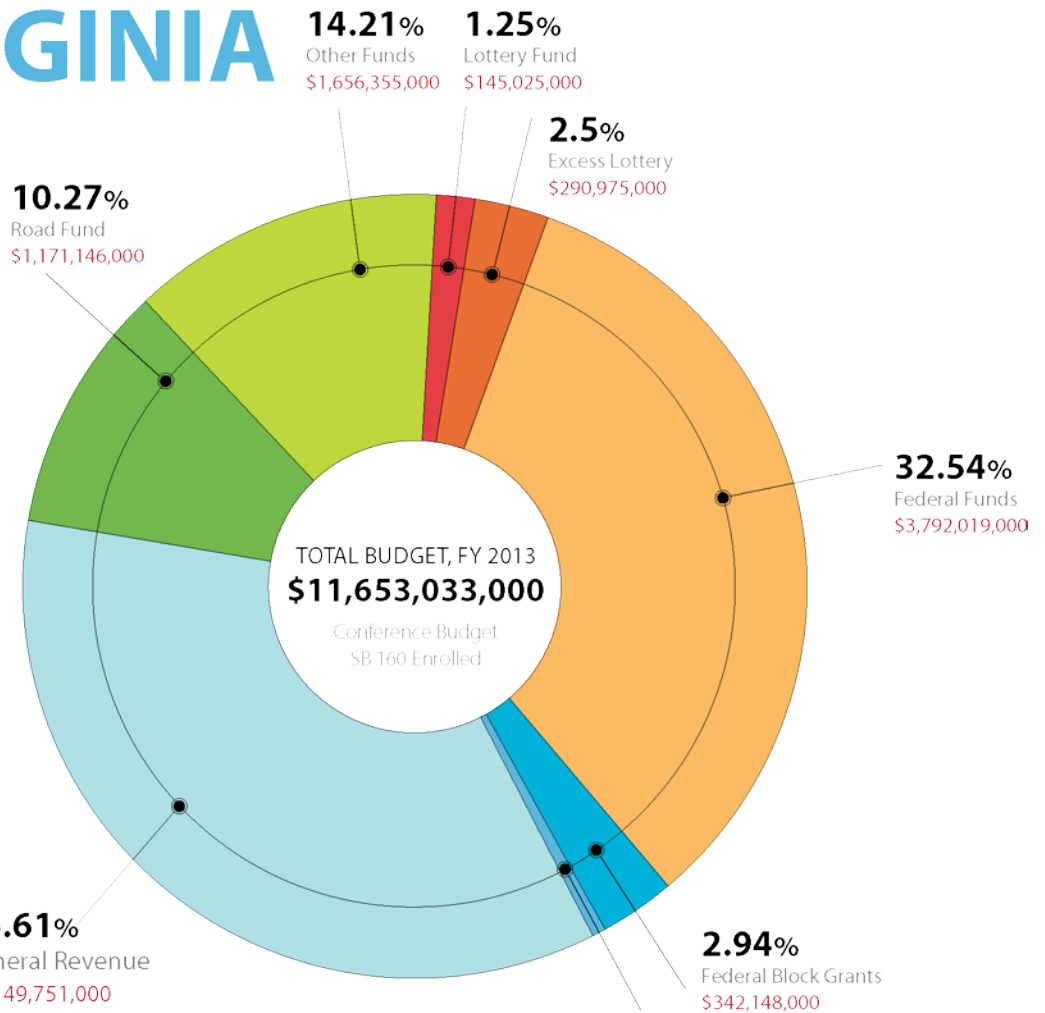
- The House version of the Bill included a \$2.5 million dollar increase in this fund pursuant to legislation that ultimately died in the Senate. Therefore, this amount has been backed out of the Conference Committee Report.

#### *Department of Commerce West Virginia Development Office*

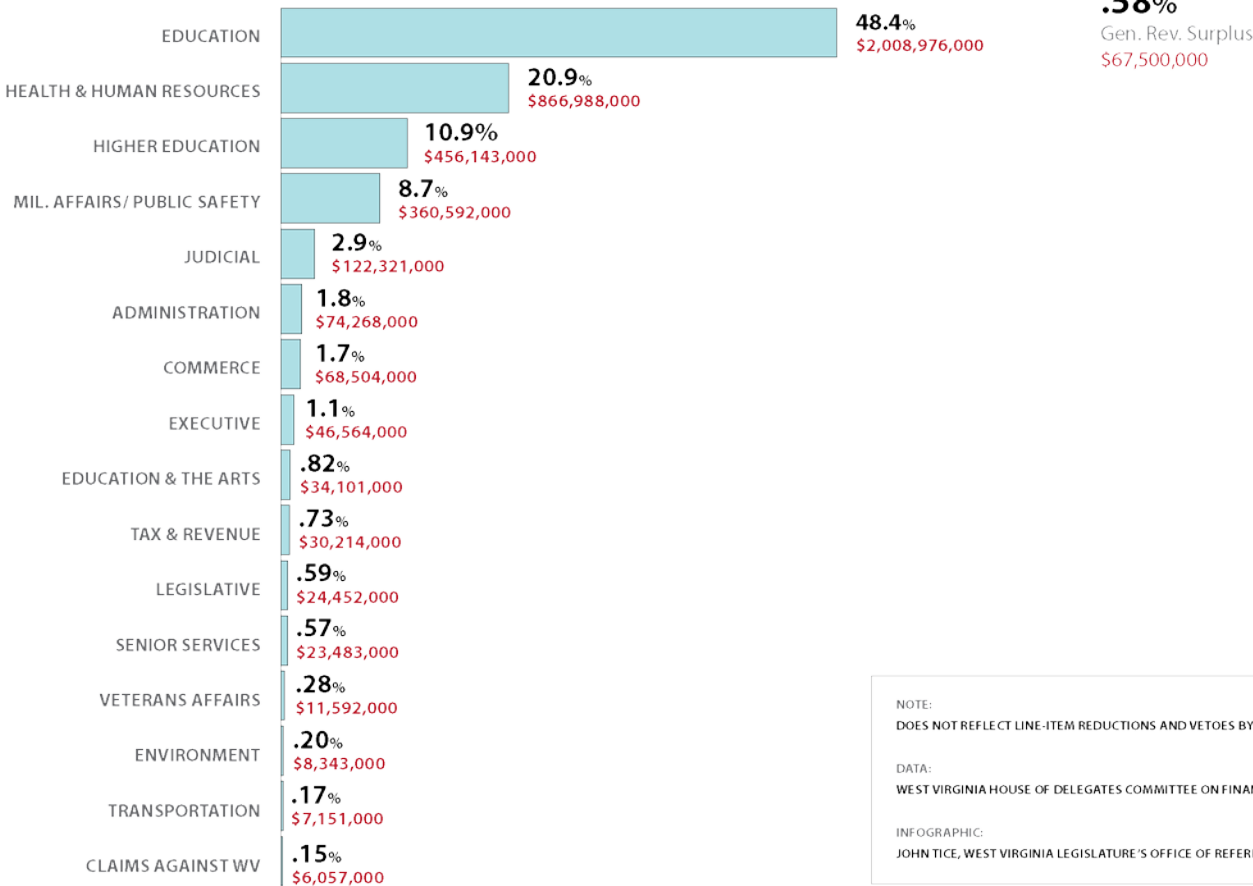
- Funding is included for TechConnect - \$250,000; Tamarack Foundation - \$250,000
- Includes an increase of \$25,000 to the Regional Contracting Assistance Center - which provides assistance to West Virginia businesses seeking Federal Government contractual work.

# WEST VIRGINIA

## 2013 BUDGET



### APPROPRIATIONS



NOTE:  
 DOES NOT REFLECT LINE-ITEM REDUCTIONS AND VETOS BY GOVERNOR.

DATA:  
 WEST VIRGINIA HOUSE OF DELEGATES COMMITTEE ON FINANCE

INFOGRAPHIC:  
 JOHN TICE, WEST VIRGINIA LEGISLATURE'S OFFICE OF REFERENCE & INFORMATION

*Division of Miner's Health, Safety, and Training*

- Funding in the amount of \$200,000 is included for 2 additional mine inspectors

*Department of Education*

- The only changes made by the conference committee were those necessary to reflect the revised numbers for local share.

*Department of Education and the Arts - Office of the Secretary*

- Funding included in the amount of \$100,000 for Globaloria (a social network for learning web-game design and simulation production. Invented by the World Wide Workshop Foundation in the spring of 2006, it seeks to create technology-based educational opportunities through a flexible set of virtual learning networks for students in developing nations, and economically disadvantaged and technologically underserved communities.)

*Division of Rehabilitation Services*

- Increase to Independent Living Services included to provide services to individuals on the waiting list
- Maintained \$300,000 increase to Workshop Development

*Department of Health & Human Resources - Division of Health Consolidated Medical Service Fund*

- Maintained the Governor's \$3 million improvement for Behavioral Health Programs and \$7.75 Million for 150 employees to staff Sharpe 50 bed expansion. (The bureau has previously relied on prior years reappropriated funds to meet the increased demands of this program. These funds have been exhausted and must now be replaced with general revenue

so that the bureau may continue to accommodate increases in client, court, and legislative demands)

*Division of Human Services*

- Maintained the current year increased to MR/DD waiver of \$1M, which allowed additional slots to the waiver program.
- Maintained \$2,087,500 for Title XIX Waiver for Seniors (in-home care reimbursement from \$14.00 to \$15.00)
- Maintained \$800,000 Traumatic Brain Injury Waiver appropriation
- Includes \$5 Million for Substance Abuse Continuum Care, (consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan. Prior to disbursement of funds, the Department of Health and Human Resources, Bureau for Behavioral Health and Health
- Facilities, shall submit a gap analysis of substance abuse services, and an outline of service provision costs to provide assistance to the Regional Task Forces and the Advisory Council for development and prioritization of recommendations.)

*Military Affairs and Public Safety**Adjutant General - State Militia*

- The Conference Committee report reflects the Senate Position, which includes an increase in this fund in the amount of \$3,000,000 for armory construction. (Recent expansions of armories throughout the state have resulted in tremendous job creation and one of the most "ready" national guards in the country. The federal Government provides 90% of these associated costs.



*State Police*

- Includes \$1.3 million for long overdue Salary Increases and associated benefits for civilian employees of the State Police

*Higher Education*

*WV Council for CTCs*

- The Bill as it left the House included increases in the amount of \$500,000 each to the base budgets for the four CTCs with the lowest ratio of state funds to student FTE. These schools include Blue Ridge, Mountwest, New River and WVU Parkersburg. The compromise reached in
- conference includes base increases to the same four schools, but with the following agreed to allocations:
- \$500,000 for New River;
- \$500,000 for WVU Parkersburg;
- \$300,000 for Mountwest; and
- \$1.6 million for Blue Ridge

**Other Fund Highlights**

*Higher Education*

- Increased appropriation to the Center for Excellence in Disabilities by \$30,000 to maximize federal match.

*Bureau of Senior Services*

- Added \$45,000 for an Alzheimers' Hotline

**Line-Item Vetos**

Forty-four states including West Virginia, according to the National Conference of State Legislatures (NCSL), allow the Governor some line item veto power as it relates to state budgets.

This year Governor Tomblin used his authority of the line item veto to reduce and/or eliminate \$13.5 million from the \$11.6 billion spending plan from a variety of line items and accounts before signing it.

**View Legislation Online**

For complete bill history information, roll call votes, amendments, sponsor, veto messages and the full bill text of all legislation from the 2010 Regular Session, please visit Bill Statutus online at:

[www.legis.state.wv.us/Bill\\_Status/bill\\_status.cfm](http://www.legis.state.wv.us/Bill_Status/bill_status.cfm)

**Track Legislation Online**

Constituents, staff, lobbyists and lawmakers can now easily follow the progress of their bills of interest online. To sign up today, please visit the Bill Tracking portion of the West Virginia Legislature's Web site at:

[www.legis.state.wv.us/billstatus\\_personalized/persbills\\_login.cfm](http://www.legis.state.wv.us/billstatus_personalized/persbills_login.cfm)

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 59.

## Actions and Suits

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

*Senate Bill 605, pg.39*

## Acts

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

*Senate Bill 221, pg.23*

*House Bill 4390, pg.56*

*House Bill 4396, pg.37*

*House Bill 4438, pg.33*

## Alcohol

### House Bill 3174 (Liquor and Beer Sampling Events)

permits Class A retail licensees to conduct responsible nonintoxicating beer and liquor sampling events any day but Sunday. The bill provides definitions and includes a requirement that the events be pre-approved by the ABCA commissioner. The bill also establishes standards, limitations and prohibitions to be applied for the conduct of such events. The bill also includes civil penalties for violations by reference, criminal penalties for violations by reference and provides for emergency rules.

### House Bill 4376 (Wine Sales at Baseball Stadiums)

licenses wine sales at certain professional baseball stadiums. It sets license fees, defines the term

“professional baseball stadium,” provides standards for licensing and authorizes the commissioner to regulate such sales.

The commissioner may issue a special license for the retail sale of wine in a professional baseball stadium. A license to sell wine entitles the licensee to sell and serve wine, for consumption, in a professional baseball stadium.

For the purpose of a definition, “professional baseball stadium” means a facility constructed primarily for the use of a major or minor league baseball franchisee affiliated with the National Association of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league baseball park.

Any special license issued shall be for a term beginning on the date of issuance and ending on the next following June 30. Its fee is \$250 regardless of the length of the term of the license.

### House Bill 4634 (Legislative auditing requirements)

removes the requirement that the Alcohol Beverage Control Commission and Children’s Trust Fund be fiscally audited. The bill also removes the requirement that the Department of Health and Human Resources be audited every two years.

## Animals

**Senate Bill 75 (Equine Rescue Facilities Act)** defines this as a facility that is listed as a nonprofit organization

that fosters care to unwanted equines due to age, health or other circumstances that deem the equines homeless.

The nonprofit facility is required to be licensed by the Department of Agriculture. The annual fee for an equine rescue facility license is \$100, which shall be remitted by the commissioner to the humane officer or animal control officer in the county where the facility is located to offset the expense of inspecting that facility. If the county does not have a humane officer or animal control officer, the commissioner shall remit the license fee to the sheriff of the county where the facility is located.

If any person violates any portion of this law then he or she is guilty of a misdemeanor and, upon conviction will be fined from \$100 to \$500 for the first offense and \$500 to \$2,500 for a second offense.

**Senate Bill 477 (Exotic Animals Permit - VETOED)** delays enforcement until 2013 by requiring the Department of Natural Resources (DNR) to write rules that would identify which animals require permits and whether zoos and animal sanctuaries would be exempt. The bill also defines exotic animals as those that pose a physical or biological threat to humans, livestock or native wildlife. Pet owners can weigh in during the rule-writing process and when the legislature reviews the rules next January.

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

*House Bill 4322, pg.44*

*House Bill 4328, pg.44*

## **Appropriations-Supplemental**

**Senate Bill 160 (Budget Bill)** – see page. 1

**Senate Bill 650** appropriates public money out of the Treasury from General Revenue to the Division of Human Services.

**Senate Bill 673** expires funds in the General Revenue Fund for the Department of Military Affairs and Public Safety

**Senate Bill 677** expires funds into the surplus balance in the General Revenue Fund, and supplements, amends and increases an item of appropriation in the aforesaid account for the designated spending unit for expenditure during the fiscal year of 2012.

**Senate Bill 678** supplements, amends, increases and adds items of appropriations in the General Revenue Fund for the designated spending units for expenditure during the fiscal year 2012.

**House Bill 4652** makes a supplementary appropriation of federal funds out of the treasury from the remaining unappropriated balance for the current fiscal year ending June 30, 2012.

Appropriations are made to the Department of Administration - Children's Health Insurance Agency, the Department of Environmental Protection - Division of Environmental Protection, the Department of Health and Human Resources - Division of Health - Central Office, the Department of Health and Human Resources - Division of Health - West Virginia Safe Drinking Water Treatment, the Department of Health

and Human Resources - Division of Human Services and to Miscellaneous Boards and Commissions - Coal Heritage Highway Authority.

**House Bill 4656 (Division of Human Services)** supplements an appropriation of federal funds out of the Treasury to the Department of Health and Human Resources in the amount of \$29,443,292. This provides an increase in the spending authority for the Division of Human Services - Temporary Assistance for Needy Families.

**House Bill 4657 (Various Agencies)** supplements special funds to the Department of Administration, Department of Environmental Protection, Department of Health and Human Resources, Department of Military Affairs and Public Safety, Department of Revenue, WV Board of Examiners for Licensed Practical Nurses and the Public Service Commission.

**House Bill 4658** supplements and amends existing appropriations from the State Road Fund to the Department of Transportation Division of Highways for the current fiscal year ending June 30, 2012 by decreasing appropriations for Appalachian Programs and increasing appropriations for maintenance, interstate construction, other federal aid programs and nonfederal aid construction.

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## **Athletics**

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

*House Bill 4119, pg.24*

*House Bill 4376, pg.5*

## **Attorneys**

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

*Senate Bill 497, pg.9*

## **Audits/Auditing**

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

*House Bill 4634, pg.5*

## **Banks and Banking**

**Senate Bill 224 (Renaming Department of Banking to Division of Financial Services)** renames the Department of Banking of West Virginia, the Office of Commissioner of Banking of West Virginia and the Office of Deputy Commissioner of Banking of West Virginia, respectively, to the Division of Financial Institutions, the Commissioner of Financial Institutions and the Deputy Commissioner of Financial Institutions.

All references in the law regarding the Department of Banking or the Division of Banking shall be read to mean the Division of Financial Institutions. All references in law regarding the Commissioner of Banking and the Deputy Commissioner of Banking shall be referred respectively to the Commissioner of Financial Institutions and the Deputy Commissioner of Financial Institutions.

**Senate Bill 336 (Mortgage Lender License Exemption)** removes lender-licensing exemptions available to subsidiaries of banks. This ensures the Division's ability to license bank subsidiaries after the Dodd-Frank Act's repeal of the Watters case, a U.S. Supreme Court decision that has upheld the authority of the OCC to preempt the application of state licensing laws to such entities.

**Senate Bill 337 (Powers and Duties of Commissioner of Banking)** permits the Commissioner of Banking to use the Nationwide Mortgage Licensing System and Registry (NMLSR) as a means of collecting and maintaining records related to criminal background investigations of those being investigated by the Division of Banking. It permits the Division to examine third-party vendors that provide IT services to financial institutions. Additionally, it establishes the Consumer Education Fund, which is a special revenue account. The account will be funded by 10 percent of all civil administrative penalties collected by the Division, which will be used to promote consumer awareness and understanding of issues related to residential mortgage lending. All funds exceeding \$500,000 at the end of the year will revert back to the General Fund.

**Senate Bill 434 (Protection for Judgment Creditor/**

**Estates/Liens)** requires the last four digits of a social security number and a date of birth be provided when a judgment creditor files a suggestion against a judgment debtor as a means of protection for the judgment debtor.

**Senate Bill 551 (Primary or Subordinate Mortgage Lending Transactions Exception)** provides an exception to the limitations on primary or subordinate mortgage lending transactions. The bill prohibits such a loan in a principal amount that when added to the aggregate total of the outstanding principal balances of all other mortgage loans for the same property, exceeds the fair market value of the property on the date the latest mortgage loan is made.

An exception would permit such a transaction when the loan is made in participation with and in compliance with a federal or state program or litigation settlement, including the federal Home Affordable Modification Program.

**House Bill 4271 (Residential Mortgage Lenders and Broker Licensees)** relates to reporting requirements for residential mortgage lenders and broker licensees. Previously, annual reports were required from mortgage lenders, brokers and servicers to the Commissioner of Banking regarding their businesses and operations in the state. The Nationwide Mortgage Licensing System and Registry (NMLSR) established by the Federal SAFE Act is now fully functional as to reporting. The bill requires licensees to file reports directly with the NMLSR for certain periods outlined within the Registry. The bill relieves the Commissioner of Banking from the current duty to publish a complete analysis of the information contained in said reports annually and instead requires the





Commissioner to publish an annual listing of licensees and direct consumers to the public information available through the NMLSR. The Commissioner is also given the authority to direct that the reports be filed directly with the Commissioner.

**House Bill 4274 (Authority of the Commissioner of Banking)** authorizes the Commissioner of Banking to regulate consumer lender licensees and provides a penalty for violation. The bill allows the Commissioner to impose a fine or civil penalty of up to \$2,000 for each violation of the law, subject to administrative appeal then judicial review under the state Administrative Procedures Act. The bill gives the Commissioner equal authority to impose penalties upon regulated consumer lenders as is given to impose penalties upon mortgage lenders, brokers and servicers.

**Bill(s) related to this section:**  
*House Bill 4239, pg.10*

**Boards and Commissions**

**Senate Bill 185 (Employee Suggestion Award Program)** raises the maximum cash award given to employees by \$6,000 and also requires the Employee Suggestion Award Board submit a report the Joint Committee on Government Finance every five years starting December, 2015 that will contain recommendations for the award amount.

The Governor will award a second cash award to an

employee after the first is given in an amount of up to \$5,000 from Legislature appropriated funds.

**Senate Bill 365 (PEIA Board Members)** increases the number of members on the Public Employees Insurance Agency Finance Board from 9 to 11 by adding one representative of a political subdivision and one additional representative of the public having experience in the financing, development or management of employee benefit programs.

**Senate Bill 497 (WV Surface Coal Mining and Reclamation Act)** adds a new section to the state West Virginia Surface Coal Mining and Reclamation Act, which authorizes the award of court costs and expenses, including attorney fees, to parties to a legal action before the Surface Mine Board and a legal action before a court reviewing the board’s decisions. The award may be assessed against either party as the court or the board “considers proper.”

**Senate Bill 572 (Advanced Practice Registered Nurse)** designates an advanced practice registered nurse is a registered nurse who has acquired advanced clinical knowledge and skills preparing him or her to provide direct and indirect care to patients, and who has also completed a board-approved, graduate-level education program and passed a board-approved national certification examination.

The current application fee of \$125 will be eliminated but the bill permits the West Virginia Board of Examiners for Registered Professional Nurses to establish a new fee.

**Senate Bill 623 (Public Service Commission -**

**VETOED**) authorizes the Public Service Commission to require capital improvement fees to include an affordable housing rate differential. It also permits the Public Service Commission to promulgate and adopt rules to establish or modify a capacity improvement fee or existing capacity improvement fee for residential and commercial customers.

**House Bill 4002 (Licensing Board Seminars)** expands the topics that can be offered at licensing board seminars. It also requires all board members to attend at least one seminar during their terms and requires them and the executive director of a newly created board to attend within one year of the board's creation.

**House Bill 4012 (Commissioner of the Bureau for Public Health)** relates to boards. While changing the membership of some boards, the bill removes the Commissioner of the Bureau for Public Health from a variety of boards effective July 1, 2012.

**House Bill 4126 (Higher Education Policy Commission)** authorizes legislative rules for the Higher Education Policy Commission and Council for Community and Technical College Education relating to tuition and fee policy and workforce development initiative programs.

**House Bill 4239 (Board of Osteopathy)** increases the number of members of the West Virginia Board of Osteopathy from five to seven. The bill increases the number of licensed osteopathic physician members from three to four and provides that one member shall be a licensed osteopathic physician assistant and two be citizen members who are not associated with the practice

of osteopathic medicine.

**House Bill 4481 (Comprehensive Behavioral Health Commission)** adds three new members and will replace one member on the Comprehensive Behavioral Health Commission.

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

*Senate Bill 214, pg.45*

*Senate Bill 379, pg.45*

*Senate Bill 418, pg.15*

*House Bill 4001, pg.50*

*House Bill 4097, pg.45*

## **Bonds**

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

*Senate Bill 362, pg.44*

*House Bill 4530, pg.56*

## **Buildings**

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

*Senate Bill 76, pg.26*

If you know the bill number, but not the subject heading of the legislation you are seeking, please refer to the index of bills on pg. 59.

## Bureaus

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

*House Bill 4062, pg.52*

*House Bill 4523, pg.21*

## Child Welfare

### Senate Bill 161 (Reporting Sexual Abuse of a Child)

expands the list of those required to report abuse and neglect of children, requires all persons to report sexual abuse of children, and increases the fine for those who fail to report.

It requires any person over the age of 18 who has actual knowledge of or observes any sexual abuse or sexual assault of a child, must immediately report the abuse within 48 hours to the State Police or other law-enforcement agency having jurisdiction.

The law-enforcement agency that receives a report under this subsection shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency as necessary to investigate the report.

Penalties for not reporting were raised from \$100 to \$1,000 as well as an increase in jailed confinement from 10 days to 6 months.

### Senate Bill 484 (Out-of-State Child Placement)

defines “court appointed special advocate program”, provides when a juvenile is ordered into out-of-state

placement and calls for the reasons why the juvenile was not placed in-state to be included in the court order.

It provides a process for multidisciplinary treatment planning in cases involving child abuse and neglect and provides a process for multidisciplinary treatment planning in cases involving status offense or delinquency.

It increases the continuing education hours required for attorneys appointed in child abuse and neglect cases.

Other provisions in the bill deal with sex offender registry; provides that the court may modify a dispositional order when it finds a material change of circumstances has occurred and such modification is in the child’s best interests, clarifies that the circuit court of origin has exclusive jurisdiction over placement of a child in a child abuse and neglect case; provides a process for permanency hearings and permanent placement reviews; authorizes a family court to order a child be taken into emergency custody under certain circumstances; and, provides that any combination of improvement periods cannot cause a child to be in foster care more than 15 months of the most recent 22 months unless the court finds that it is in the child’s best interests.

It also provides guidelines for unified child and family case plans and increases the required continued education hours for attorneys appointed in these cases.

### Senate Bill 507 (Involuntary Hospitalization/Firearm Possession/Mental Hygiene)

authorizes a parent or guardian to commit a child without his or her consent if the child is under 18 years of age.

It also clarifies the procedures for previously involuntarily committed persons petitioning to regain the right to possess firearms to enable West Virginia to become eligible for federal funding.

**Senate Bill 596 (Banning Child Erotica)** prohibits the possession, distribution, display, or production of child erotica depicting minors under the age of 18. Any person found guilty of committing this offense will be subject to a misdemeanor and either be confined to jailed, fined or both.

**Senate Bill 611 (At-Risk Youth Pilot Project)** aims to improve outcomes for at-risk youth in West Virginia by creating a DHHR community based pilot project, if funds are available. At-risk youth are defined as those between birth and age 21 who are low-income, receive benefits from DHHR, and under the jurisdiction of DHHR, or who are in custody of juvenile services, juvenile court, or the alternative school system.

A centrally located, community-based non-profit organization that has adequate facilities and community leadership to facilitate the four year pilot project will be chosen by the DHHR and be put in a county with the most at-risk youth. The pilot project will be operated under the direction of DHHR and in collaboration with educational and juvenile justice entities.

**House Bill 4130 (Felony Charge for Sale or Purchase of a Child)** covers a multitude of situations regarding the sale or purchase of a child. The bill spells out that any person or agency who knowingly offers, gives or agrees to give to another person money, property, service or other thing of value to buy a minor child for any

purpose which entails a transfer of the legal or physical custody of the child is guilty of a felony.

The bill also declares that any person who knowingly receives a child in a sale is also guilty of a felony and, subject to fine and imprisonment.

Upon conviction of this felony, a person will face up to one-to-10 years in a state correctional facility and fined \$2,000 to \$10,000.

The child may be placed in the custody of the Department of Health and Human Resource or with a responsible person as the best interests of the child dictate.

**House Bill 4521 (Restructured Child Support Payments for Release Inmates)** permits the restructuring of child support payments of an inmate who is released under certain circumstances.

Upon release from the custody of the Division of Corrections or the United States Bureau of Prisons, a person who is gainfully employed and is subject to a child support obligation - from whose weekly disposable earnings an amount in excess of 40% - is being withheld for the child support obligation or obligations may, within 18 months of release, petition the court. The court having jurisdiction over the case may restructure the payments to an amount that allows the person to pay his or her necessary living expenses.

In order to achieve consistency and fairness, one judge may assume jurisdiction over all the cases the person may have within that circuit of the court. In apportioning the available funds, the court is to give priority to the



person’s current child support obligations provided that a minimum of \$50 per month is paid in each court case.

a relative of an appointing authority or convicted of a felony or misdemeanor crime or moral turpitude.

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

*Senate Bill 221, pg.23*

*House Bill 4327, pg.33*

**Civil Rights**

**House Bill 4015 (Office of Minority Affairs)** creates the Office of Minority Affairs, which will advocate for issues affecting minorities in the state. Its costs will amount to approximately \$175,000. The office will provide a forum to discuss issues and concerns of minority communities and develop strategies to improve the delivery of services to minorities.

Minority groups that would benefit from the office’s efforts would include any religious or ethnic groups that make up less than 10 percent of the state’s population or other groups that have historically faced discrimination.

**Civil Service**

**House Bill 4063 (Civil Service Commissions)** updates and makes consistent the statutory provisions relating to the civil service commissions for deputy sheriffs, correctional officers, and city police and fire departments. It also adds new disqualifying situations that include being

**Claims**

**House Bill 4398 (Claims Against the State)** declares that certain claims against the State are moral obligations of the State.

**Code Repealed**

**Senate Bill 575 (EMS Retirement System)** repeals state Code relating to prior disability under the Emergency Medical Services Retirement System.

**House Bill 4046 (Obsolete Code Provisions)** removes the outdated sunset language within provisions of the Code and also repeals the Public Health Advisory Council.

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

*House Bill 4390, pg.56*

*House Bill 4481, pg.10*

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## Commerce

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

*House Bill 4251, pg.55*

## Communications

**Senate Bill 110 (Broadband Deployment Council Membership)** modifies and increases the membership of the Broadband Deployment Council and expands its powers and duties.

The council increases from 11 to 13 voting members. The two additions include a representative of incumbent local exchange carriers and another representing competitive local exchange carriers who provide broadband services in the state.

Its powers and duties have been expanded so the council can explore the increased use of broadband for purposes of education, career readiness, workforce preparation and alternative career training. The council will explore ways to encourage state and city agencies to expand the development of broadband such as including audio and video streaming, voice-over Internet protocol, teleconferencing and wireless networking.

It is also to promote awareness of facilities that have broadband access for education and workforce development.

The council will also advise on the deployment of all public and political subdivisions e-government one-stop access.

**Senate Bill 500 (Telecommunication Services Statements)** allows monthly statements for telecommunication services of less than \$75 to be accumulated and sent to the spending unit in one statement at the end of the fiscal year.

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

*Senate Bill 211, pg.41*

*Senate Bill 212, pg.18*

## Consumer Protection

**Senate Bill 360 (Abandoned Property)** creates a procedure for deeming personal property as “abandoned” after a transfer of real property by tax sale or foreclosure. The bill requires the owner to be notified of personal property remaining on real property after the previous owner has vacated. The bill also creates a procedure for notice and removal of personal property within a 30-day period, which allows the purchaser of real property the authority to remove personal property after proper notice is given prior to vacation of property.

## Contracts

**Senate Bill 118 (Death of a Tenant)** provides for the termination of a residential rental lease upon the death of the lessee.

Upon the death of a lessee of a residential premises, an heir, personal representative, devisee or assignee of the deceased lessee may terminate a lease entered into or renewed on and after July 1, 2012, prior to its expiration. However, damages payments remain in force with the exception of normal wear and tear.

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

*Senate Bill 36, pg.30*

## **Corporations & Business Entities**

**Senate Bill 619 (Annual Business Fees and Reports)** clarifies that limited liability companies, foreign limited liability companies and foreign corporations are required to file annual reports. The bill changes a \$100 penalty to a \$50 late fee for delinquent annual reports. It also provides a \$25 late fee for delinquent annual reports for nonprofit corporations. The Secretary of State is required to deposit all late fees collected in its general administrative fees account instead of the state's General Revenue Fund.

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

*Senate Bill 386, pg.52*

*Senate Bill 430, pg.53*

## **Corrections**

**Senate Bill 156 (Excess Funds to Offset Prison**

**Operational Costs)** allows the Corrections Commissioner to use excess funds to offset operational costs.

The Correctional Industries Account must not exceed \$2 million. Any moneys in the account exceeding \$2 million will be transferred to the State Treasury to be put into a special revenue account known as the Additional Operations Account. The Corrections Commissioner is authorized to use funds from the account to offset operational costs, for building and maintenance, purchases, equipment repair or replacement for the Division of Corrections and to defray necessary expenses incident to those activities.

**Senate Bill 165 (Sexual Contact with Incarcerated Persons)** makes it a criminal offense for correctional employees to have sexual contact with incarcerated persons and clarifies that "consent" is not a defense.

The bill notes that any employee of the Division of Corrections, the Division of Juvenile Services and the Regional Jail and Correctional Facility Authority who engages in sexual intercourse, sexual intrusion or sexual contact with an inmate is guilty of a felony and shall be confined from one to five years or fined up to \$5,000.

**Senate Bill 166 (Disarming Correctional Officer)** adds correctional officer to the list of people cited in law - law-enforcement officer, probation officer or parole officer - that persons who intentionally disarm or attempt to disarm people on duty are guilty of a felony.

**Senate Bill 418 (Parole Board Members' Qualifications)** states any person initially appointed

to the board on or after July 1, 2012, shall have at least a baccalaureate degree from an accredited college or university and at least five years of actual experience in the fields of penology, corrections, law enforcement, sociology, law, education, psychology, social work, medicine or a combination thereof.

**Senate Bill 517 (Highways Community Beautification and Reclamation Programs)** allows counties or municipalities to establish community beautification and reclamation programs for state highways, municipal, county and state parks and recreation areas. The bill also includes community gardens for people participating in community-based corrections programs.

**Senate Bill 566 (Division of Corrections Contracting with Non-profits)** allows the Division of Corrections to contract with certain nonprofit charities such as community mental health clinics, operating halfway houses, or transitional housing facilities.

The circuit courts can order persons serving a life sentence to serve in such facilities; however, the Division of Corrections will not be responsible for the cost of placing inmates with a charity organization. The person convicted will be required to pay the placement cost.

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

*Senate Bill 331, pg.19*

*Senate Bill 673, pg.6*

## Counties

**House Bill 4451 (County Executive Committees)** clarifies that county executive committees, and not the

county clerk, have the authority to designate persons to serve as ballot commissioners.

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

*House Bill 4072, pg.24*

## County Commissions

**House Bill 4567 (Harrison County Special District Tax)** permits the Harrison County Commission to levy a special district excise tax for the benefit of the “Charles Pointe Economic Opportunity Development District.” The district comprises 437 acres of land and would become only the second sales Tax Increment Financing (TIF) district ever authorized under statute.

## Courts

**Senate Bill 100 (Established Fees by Circuit Clerks)** relates to the collection of established fees by circuit clerks who charge and collect for services that involve instituting any civil action filed with the court. These fees cover any civil action under the Rules of Civil Procedure, any statutory summary proceeding, any extraordinary remedy, the docketing of civil appeals or any other action, cause, suit or proceeding. The clerk will collect the paperwork fees that are paid in advance of the proceeding.



However, the bill removes the requirement that the circuit court charge three times the amount of actual postage when mailing documents.

**Senate Bill 191 (Non-family or Non-Household Personal Safety Orders)** provides for the protection of nonfamily or nonhousehold members who do not otherwise qualify for protection under the domestic abuse statute. A petition for relief under this article may be filed by a person seeking relief for herself or himself; or a parent, guardian or custodian on the behalf of a minor child or an incapacitated adult. However, a partitioner is not limited from pursuing any other legal remedy.

It establishes jurisdiction of magistrate and circuit courts, venue for actions and procedures for filing petitions. The bill provides for hearings, entry of orders and contents of orders; it declares orders effective statewide, establishes means of service of process, makes proceedings confidential and makes rules of evidence applicable to proceedings. The bill allows for civil contempt for violations of orders, creates criminal offenses for violations of protection orders with misdemeanor and, felony criminal penalties.

The bill also includes right to file. - No person may be refused the right to file a petition under the provisions of this article. No person may be denied relief under the provisions of this article if she or he presents facts sufficient under the provisions of this article for the relief sought. An individual who knowingly provides false information in the petition is guilty of a misdemeanor and on conviction is subject to the penalties.

Temporary personal safety orders and other forms of relief are also contained in the bill as well as direction regarding personal safety hearings, among other regulations, fees and rules associated with the new section of state law.

A temporary personal safety order and final personal safety order issued under this article shall state that a violation of the order may result in a criminal prosecution, incarceration, fine or both.

**Senate Bill 471 (Mental Hygiene Commissioner's Compensation)** authorizes the Supreme Court of Appeals to establish a reasonable rate of compensation for mental hygiene services instead of a circuit court. The bill also requires Mental Hygiene Commissioners to submit compensation requests to the administrative director of the courts for payment.

**Senate Bill 618 (Courts and DMV failure to pay)** requires the magistrate and municipal courts to wait 90 days after a person is charged with a motor vehicle violation before notifying the DMV of the persons' failure to pay or appear. It also provides an extra cushion of time after the failure to pay or appear in order to cut down on license suspensions.

**House Bill 3128 (Expunging Records)** allows any person who has been charged with a criminal offense under the laws of this state and who has been found not guilty of the offense, or against whom charges have been dismissed (not in exchange for a guilty plea to another offense) to file a civil petition in the circuit court in which the charges were filed to expunge all records relating to the arrest, charge or other matters arising out

of the arrest or charge.

**House Bill 4314 (Appointment of Magistrates)** requires that when a vacancy occurs in the office of magistrate a person of the same political party, as the former officeholder shall be appointed.

**House Bill 4522 (Expand Authority of Family Court Judge)** expands the authority of a family court judge in civil contempt cases.

In addition to the powers of contempt previously established in state law, a family court judge may, upon a finding that a person is in civil contempt, may place the person on work release in a weekend jail program, in an existing community service program, in an existing day-reporting center program, in any other existing community corrections program or on home confinement as an alternative to incarceration.

**House Bill 4648 (Domestic Violence Court Pilot Project)** authorizes the Supreme Court of Appeals to use existing judicial officers and resources to establish and implement a single domestic violence court pilot project.

The Supreme Court of Appeals is authorized to assign an appropriate judicial officer for one pilot domestic violence court in any jurisdiction chosen by the Supreme Court of Appeals.

The judicial officer assigned has the authority and jurisdiction to preside over certain criminal misdemeanor crimes of domestic violence involving family or household members. The judicial officer chosen for any

pilot domestic violence court may be a current or senior status circuit judge, family court judge, temporary family court judge or magistrate.

The Supreme Court of Appeals is requested to maintain statistical data to determine the feasibility and effectiveness of any pilot domestic violence court. The program shall terminate December 31, 2016, and the Supreme Court is requested to provide a report to the President of the Senate and the Speaker of the House of Delegates regarding the program's efficacy prior to the regular sessions of the Legislature in 2015 and 2016.

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

*Senate Bill 484, pg.11*

*Senate Bill 497, pg.9*

*House Bill 2521, pg.21*

*House Bill 4291, pg.37*

*House Bill 4307, pg.21*

*House Bill 4424, pg.33*

*House Bill 4521, pg.12*

## **Crimes**

**Senate Bill 212 (Disrupting Communications and Public Utility Services)** creates criminal offense for disrupting communications and public utility services.

Communications and public utility equipment includes but is not limited to public safety communications towers and equipment, telephone lines, communications towers and tower equipment, radio towers and tower equipment,



railroad and other industrial safety communication devices or systems, electric towers and equipment and electric transmission and distribution lines.

Those who cause a disruption of communications services or public utility services by theft or by intentional damage that disrupts public services to 10 or more households or causes a loss in the value of the property in an amount of \$1,000 or more will be guilty of a misdemeanor.

Upon conviction of a first offense, a person will be sentenced to at least 1,000 hours of court-approved community service and fined up to \$10,000, or both. For a second offense, the person is guilty of a felony and is to be imprisoned in a state correctional facility for one to five years and fined up to \$10,000 or both. For a third offense, the person is guilty of a felony and shall be imprisoned in a correctional facility for one to 10 years or fined up to \$10,000, or both.

**Senate Bill 331 (Prosecutorial Notification for Persons Residing with Crime Victims)** provides certain individuals residing with crime victims prosecutorial notification and the right to be heard at sentencing and parole proceedings. These non-relatives must have resided with the victim at the time of the crime for at least a year preceding the crime.

**Senate Bill 382 (Computerization of Required Sex Offender Registration)** clarifies that a sex offender must register with the State Police in the county of his or her residence. The offender must keep the State Police informed of any change to the required registration information. The sex offender registry is now

computerized so offenders no longer have to register in every county they visit, work or attend school.

In general, other requirements call for persons convicted of sex offenses to register if he or she has distributed obscene matter to minors and requires offenders to provide palm prints as well as fingerprints.

**Senate Bill 385 (Computer Crime and Abuse Act)** amends the Computer Crime and Abuse Act by expanding the definition of “computer” in the commission of certain crimes. The bill expands definitions relative to the distribution or exhibition of obscene matter to minors.

New language notes the term “computer” includes any connected or directly related device, equipment or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer or another device, file servers, mainframe systems, desktop personal computers, laptop personal computers, tablet personal computers, cellular telephones, game consoles and any other electronic data storage device or equipment, but the term does not include an automated typewriter or typesetter, a portable hand-held calculator or other similar device.

**Senate Bill 408 (Graffiti - VETOED)** makes applying graffiti (intentional defacement of public and private property) a crime. The bill makes first- and second-offense convictions misdemeanors, with third-offense being a felony punishable by up to three years in prison. It also allows judges to order driver’s license revocations for juveniles convicted under the graffiti statute.

**Senate Bill 411 (Electronic Cash Register Sales Suppression Devices)** makes the use in West Virginia of electronic cash register automated sales suppression devices unlawful.

An “ automated sales suppression device” or ”zapper” means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports.

Any person convicted of using the device is guilty of a felony and can be confined in a correctional institution for one to five years, or fined \$10,000 to \$100,000, or both confined and fined. The convicted person is also liable for all taxes and penalties due the state as the result of the fraudulent use of an automated sales suppression device, zapper or phantom-ware. He or she also will have to forfeit all profits associated with the sale or use of an automated sales suppression device or phantom-ware.

Any person found in possession of such device or software is subject to further penalties as provided by law for an attempt to evade tax.

**Senate Bill 547 (Conviction Expungement - VETOED)** removes the current age restriction (18-26) and expands possible expungement to certain non-violent felonies three years after the end of any sentence or probation, whichever is later in time.

**House Bill 4053 (Modernize Kidnapping Statute)** modernizes the kidnapping statute and also makes it a

felony to force two or more people a year to work in the sex trade or to provide manual labor. Penalties for the crime of human trafficking were changed to an indeterminate sentence of three to 15 years in prison. Language revising the decades-old kidnapping law was restored.

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

*Senate Bill 161, pg.11*

*Senate Bill 165, pg.15*

*Senate Bill 166, pg.15*

*Senate Bill 596, pg.12*

*Senate Bill 606, pg.44*

*House Bill 4130, pg.12*

## **Criminal Background Checks**

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

*Senate Bill 353, pg.29*

## **Disabilities**

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

*Senate Bill 498, pg.52*

*Senate Bill 575, pg.13*

*House Bill 4238, pg.26*

## Domestic Relations

### **Senate Bill 51 (DNA Results Used in Divorce Cases)**

denies spousal support if a party learns of a spouse committing adultery through DNA evidence after entry of the divorce decree.

After the entry of a divorce court order, it is determined by DNA evidence that a child conceived during the marriage of the parties is found not to be the child of the husband, or that a child was born to a woman other than the wife because of the adultery of the husband, the court may, upon motion of a party, deny the spousal support previously ordered to the adulterous spouse.

### **House Bill 4307 (Domestic Violence Civil Proceedings)**

clarifies that those individuals who are subject to domestic violence final protective order are not allowed to possess firearms or ammunition while the order is in effect. It also clarifies that the Supreme Court promulgated domestic violence rules apply to domestic violence matters regardless of the court handling the matter - circuit, family or magistrate.

### **House Bill 2521 (Domestic Violence Orders)**

eliminates the requirement that domestic violence orders be served by certified mail when personal service fails. The service shall be attempted within 72 hours of law enforcement's receipt of the order to every address provided.

Any law-enforcement agency that serves pleadings or orders may receive a fee authorized within the Rules of Practice and Procedure for Domestic Violence Civil Proceedings. If service is not made, law enforcement will continue to attempt service on the respondent until proper service is made.

### **House Bill 4523 (Bureau for Child Support Enforcement and Reporting)**

requires that an employer who is contracting services with an independent contractor must report the realized income to the Bureau for Child Support Enforcement, if the payment for services totals \$2500 or more. An "independent contractor" is defined as an individual who is not an employee of the employer and who receives compensation or executes a contract for services performed for that employer and does not include a direct seller.

### **House Bill 4605 (Premarital Education)**

provides a premarital education option to applicants for marriage licenses. The bill provides for minimum requirements concerning the provision of this education, encourages marriage applicants to participate by increased marriage license fees in its absence and creates a fund for purposes of administering the premarital education.

A marriage application will note that the applicants seeking issuance of the license have completed premarital education (or not). After participating in the course, the applicants submit a signed and dated certificate of completion issued by the premarital education provider.

The licensees may attend a premarital education course of at least eight hours during the year preceding the application. The course offers instruction involving a variety of issues to include conflict management, financial management, parental responsibilities, etc.

The existing fee for a marriage license and accompanying paperwork is \$70. This fee is reduced to \$35 if the applicants present a premarital education course completion certificate dated within one year of the

application for a marriage license.

If a premarital education course completion certificate is not presented, \$35 of the marriage license fee received shall be deposited in the Marriage Education Trust Fund created by this bill.

The Marriage Education Trust Fund, administered by the Secretary of the Department of Health & Human Resources, is generated from the surplus marriage license fee.

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

*Senate Bill 191, pg.17*

*House Bill 4648, pg.18*

## Drugs & Drug Paraphernalia

**Senate Bill 588 (Wholesale Drug Distribution Licensing Act)** provides an update for the Wholesale Drug Distribution Licensing Act of 1991. Under the provisions of the bill, the Board of Pharmacy is authorized to penalize licensees with civil penalty fines. In addition, the bill requires the registration of wholesale and pharmacy distributors of prescription drugs.

**House Bill 4601 (WV National Guard Asset Forfeiture Program)** allows the West Virginia National Guard to participate in federal asset forfeiture or seizure sharing programs with federal agencies. When the WV National Guard assists a federal agency in drug interdiction or counter-drug activities, the Department of Defense may provide a portion of the funds from the proceeds of

asset forfeiture or seizure, if any, to a state that has met the requirements of the federal law.

Federal law requires a state to have an approved plan for participation in drug interdiction and counter-drug activities with federal agencies. A special revenue account is created under this bill, known as the WV National Guard Counterdrug Forfeiture Fund, which will receive the proceeds from the asset forfeiture or seizure-sharing program from the Department of Defense. The money will be used to carry out the provisions of the program.

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

*Senate Bill 437, pg.44*

## Economic Development

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

*House Bill 4015, pg.13*

*House Bill 4086, pg.54*

*House Bill 4263, pg.48*

## Education

**Senate Bill 186 (Teacher Salary Equity Supplement Payments)** provides salary equity supplement payments to teachers and service personnel in order to achieve



salary equity among the counties. It changes the methods of calculating the difference in salary potential of school employees among the counties and requires the Department of Education to request additional funds if it determines the equity objective is not being met. It also clarifies the amount of equity supplement to be paid from state funds.

**Senate Bill 221 (Jason Flatt Act)** provides for the routine education of all professional educators, including principals and administrators, and those school service personnel having direct contact with students on warning signs and resources to assist in suicide prevention under guidelines established by the state board.

The education may be accomplished through self-review of suicide prevention materials and resources approved by the state board.

The provisions of this paragraph may be cited as the “Jason Flatt Act of 2012” and falls under the professional development project in state law concerning career development by persons employed in the public school system.

**Senate Bill 371 (State of Emergency to Innovation Zone)** provides a specific school system under a declared state of emergency to advance and participate as a collaborative innovation zone.

The passage was considered key for a five-year project that seeks to rescue McDowell County’s long-struggling schools. The process McDowell County must follow to seek flexibility from state education policies requires the county to hold two town hall meetings and to include the

community’s feedback into a plan submitted to the state. The county must also meet with school staff, and at least two-thirds of staff must endorse the plan. At least half of school employees must participate in the vote before the plan could be submitted to the state.

It allows flexibility within county school systems; authorizes the State Board of Education to select a county school system to serve as a county innovation zone pilot project; and, gives McDowell County the first opportunity to submit an application.

**Senate Bill 436 (Technical Colleges and Higher Education Curricula Collaboration)** facilitates and encourages collaboration between the public school system and public higher education to promote programs of study and seamless curricula.

It establishes the West Virginia EDGE initiative and the Collaboration Degree Completion Program (Earn a Degree - Graduate. This program is part of the programs of study and seamless curriculum initiative that focuses on aligning curriculum between education levels. Specifically, West Virginia EDGE is established to connect public schools with higher education for the following purposes:

- To prepare public high school students for success in the workplace or postsecondary education; and
- To provide the opportunity for these students to earn community and technical college credit free-of-charge for the duplicated secondary and postsecondary courses identified during the curriculum alignment process.



The state board is also to provide a program for adult basic education at each state community and technical college campus where developmental education services are provided in cooperation with the West Virginia Council for Community and Technical College Education and the institutional board of governors of each college. This approach to providing adult basic education links these programs with developmental education and creates a simpler, clearer pathway for adults to enter college.

**Senate Bill 646 (GED Program Study)** requires the State Board to conduct a study regarding various aspects of the General Educational Development (GED) program. The study includes the impact on prospective GED test takers of the redesigned test, the increase in costs per individual tested, and the alternatives available to reduce exam costs and to retain the option of written testing for those who desire it.

**House Bill 4070 (Rehabilitation Teachers Salary Supplement)** changes the basis for the county salary supplement equivalent pay rate for division of rehabilitation teachers from the amount paid - to teachers by the board of education of the county in which the teacher works - to the amount paid to teachers by the board of education of the county in which the division of rehabilitation administrative headquarters is located.

**House Bill 4072 (Board Of Education Meeting Requirements)** addresses county board of education meetings, covering such topics as regular and special meetings, how they are called, public hearings on budgets, member compensation and membership in the WV School Boards Association. The bill eliminates the requirement that county boards of education meet on

the first Monday of July in years in which there isn't a biennial primary election.

**House Bill 4101 (Teacher-In-Residence Alternative)** authorizes teacher-in-residence programs for certain prospective teachers in lieu of student teaching.

Teacher education programs in the state may enter into agreements with county boards to use intensively supervised and mentored "teacher-in-residence" programs approved by the state board, in lieu of student teaching, for prospective teachers during their senior year who have already passed the basic skills and content area licensure tests and meet other requirements. The teacher-in-residence must be issued a teacher-in-residence permit and would be the teacher of record. The salary and benefit costs for the position to which he or she is assigned would be used to help support program costs and pay a stipend to the teacher-in-residence.

**House Bill 4119 (School Athletic Director Defined)** defines a "school athletic director" as a person employed by a county board, under the supervision of a school principal, to work in a school's athletic program. It authorizes employment in public schools under certain conditions; and designates responsibilities of the position.

Some responsibilities of the athletic director include planning, management, operation and evaluation of the athletic programs plus supervising athletic games, overseeing the athletic budget, hiring game officials, upholding SSAC league rules, scheduling transportation for game trips, verifying athletic eligibility lists and supervising and evaluating coaches. In addition, the athletic director is to secure personnel for basic athletic



event operations and procure and care for athletic equipment.

**House Bill 4122 (Teacher-in-Residence Programs)**

establishes agreements between teacher education programs and county boards to use intensively supervised “teacher-in-residence” programs in substitute of student teaching programs. This would allow college students pursuing education degrees greater flexibility when fulfilling the state student teaching requirements.

**House Bill 4125 (Crisis Response Plan)**

corrects the date of the school year from 2012-2013 to 2013-14, for each school to begin sending an annual notice to the parents and guardians of students at the school alerting them to the existence of the school’s crisis response plan and of their ability to review a redacted copy at the offices of the county board.

**House Bill 4236 (Teacher and Principal Evaluations)**

creates an evaluation system that reflects student achievement in order to be eligible for a waiver from the federal No Child Left Behind law. West Virginia announced in February that it would seek a waiver to create its own accountability system aimed at improving student achievement.

The bill expands statewide a teacher evaluation pilot project now used in 25 counties. It enacts a statewide system of evaluating teachers and principals that focuses on all outcomes. Twenty percent of their evaluations must be based on the school’s progress and test scores.

It also requires development of mentoring and other improvement plans for teachers with substandard evaluations.

**House Bill 4299 (Bus Operator Use)** authorizes a county board of education to use the services of a bus operator from another county in certain circumstances.

**House Bill 4583 (Deadlines Associated with Transfer of School Personnel)**

moves the deadline associated with the termination, resignation and transfer of school personnel and rehiring of probationary employees from February 1 to March 1. The bill requires a 21-day notice before employed teachers can leave one position for another within the system.

**House Bill 4655 (School Service Personnel Certification)**

relates to school service personnel certification; establishes criteria for certain certificate issuance, denial and revocation; establishes certification review panel; requires reporting of certain acts; provides for certificate recall and correction under certain circumstance; and requires State Board rule.

A school bus operator certificate shall be issued to a person who has completed the required training, has passed the appropriate competency test, and meets the physical requirements to operate a school bus pursuant to State Board rule. The authority of the State Board to issue, deny or revoke the certification is limited to the questions of whether the applicant has completed the appropriate training, has passed the appropriate competency test and possesses the physical ability to operate a school bus.

The State Board may revoke certification or refuse certification to an individual who has met all certification criteria only for conviction of a felony or revocation of a commercial driver’s license.

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

*Senate Bill 469, pg.49*

*House Bill 4126, pg.10*

*House Bill 4433, pg.40*

## Elections

**Senate Bill 628 (Political Fund Raising)** allows a political party committee to raise funds for a state executive committee headquarters. Individual or corporate contributions more than \$250 must be reported to the Secretary of State, and contributions of more than \$10,000 are prohibited.

**House Bill 4238 (Address Confidentiality Program Participants)** provides that absentee ballots be made available to participants of the Address Confidentiality Program. The bill authorizes that the program's participants be placed on a special absentee voting list and allows them to vote using an absentee ballot by mail. The bill also describes duties of the office of the Secretary of State and county officials designated to supervise and conduct absentee voting and provides for the removal of program's participants from the special absentee voting list.

**House Bill 4257 (Late Voter Registration)** provides late voter registration opportunities for individuals under the Uniformed and Overseas Citizens Act of 1986 including members of the armed services, Merchant Marines and those residing temporarily outside of the United States as well as their spouses or dependents.

**House Bill 4403 (Write-in Candidate Filing Deadline)** ensures that the filing deadline for certified write-in candidates is sufficiently early enough to support the required transmission deadline of absentee ballots to voters cover by the Uniformed and Overseas Citizens Absentee Voting Act of 1986. The bill amends current law by moving the date before which a certificate must be filed from the 42nd day before the election to the 49th day before the election.

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

*House Bill 4279, pg.43*

*House Bill 4451, pg.16*

## Emergency Services

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

*Senate Bill 575, pg.13*

*House Bill 4028, pg.32*

## Energy

**Senate Bill 76 (Green Buildings Act)** requires new building construction projects of public agencies and projects receiving state funds to be designed and constructed complying with the ICC International Energy Conservation Code and the ANSI/ASHRAE/IESNA Standard 90.1-2007.



It encourages the construction of energy-efficient public buildings and improves the environment using energy efficient standards. It also sets forth findings and sets standards for construction projects with federal funding.

All new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July 1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007.

**House Bill 2740 (Making covenants that restrict the installation or use of solar energy systems unenforceable)** makes covenants that restrict the installation or use of solar energy systems unenforceable. The bill declares that all deed restrictions prohibiting solar energy systems are void but allows reasonable restrictions on solar units so long as the restrictions do not make them too costly or eliminate the system’s energy conservation benefits. It also allows members of a housing development or association to vote on whether or not to place restrictions on the issue.

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

*Senate Bill 487, pg.53*

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**Environmental Protection**

**Senate Bill 496 (Greenhouse Gas Inventory)** modifies the Department of Environmental Protection’s requirements to inventory emissions of greenhouse gases and eliminate unneeded provisions.

The bill allows reporting of greenhouse gases under the United States Environmental Protection Agency’s Mandatory Reporting of Greenhouse Gases Rule to satisfy greenhouse gas reporting requirements in West Virginia. It defines “greenhouse gas” as carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

**Senate Bill 528 (Copper Theft)** attempts to reduce the theft of copper wiring and other metal items by making it a crime for scrap-metal dealers to knowingly accept stolen materials, or to accept a variety of metal wiring and fixtures if the seller cannot provide proof of ownership.

**Senate Bill 562 (DEP Rule-Making)** allows the Department of Environmental Protection to establish a procedure to measure the compliance with the biological components of the narrative water quality standard.

**Senate Bill 615 (WV Water Pollution Control Act)** makes the National Pollution Discharge Elimination System program in West Virginia consistent with the federal Water Pollution Control Act, known as the Clean Water Act. The bill conforms the West Virginia Water Pollution Control Act to the federal Clean Water Act.

**House Bill 4320 (Hazardous Waste Management Act by consent agreements)** provides an alternative to

instituting a civil action in the circuit courts of the state. This bill authorizes the Secretary of the Department of Environmental Protection to propose legislative rules that will settle violations of the Hazardous Waste Management Act by consent agreements.

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

*Senate Bill 253, pg.50*

## **Estates & Trusts**

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

*Senate Bill 434, pg.8*

*Senate Bill 435, pg.52*

## **Fire Fighting & Prevention**

**Senate Bill 343 (Grace Period for Pension Eligibility)**

provides volunteer and part-volunteer fire departments' a grace period to meet eligibility for allocations from municipal pensions and protection fund and the Fire Protection Fund. The submission requirements must comply with all applicable federal and state laws.

Each volunteer or part volunteer fire company or department shall have a grace period of 90 days, beyond the allocation date in which to comply with submission requirements to the State Fire Marshal.

The State Fire Marshal shall notify each volunteer or part volunteer fire company or department of the due date for

submitting the information required by this section and the grace period by certified mailing requiring signature and a return receipt.

When the records of a volunteer or part volunteer fire company or department are destroyed by a fire or other natural disaster, then the affected volunteer or part volunteer fire company or department is exempt from the submission requirements for a three month period immediately following the destruction of the records.

**Senate Bill 634 (Public Safety Assessment Fee - VETOED)**

authorizes municipalities that participate in the standard, optional or conversion method of financing their police or firemen pension plans to pass an ordinance for a public safety assessment fee with revenues dedicated to reducing any unfunded actuarial liability. The assessment would be based on square footage and cannot be more than two cents per square foot annually. The bill also authorizes municipalities to pass an ordinance permitting a lien to be filed against properties for unpaid assessments.

**House Bill 4107 (Volunteer Firefighter Training)**

states that on or before July 30, 2012, the State Fire Commission shall propose rules to establish training requirements for firefighters which provide for minimum training levels for rescue and fire fighting; minimum levels of equipment needed to protect life and property within fire service areas; minimum performance standards the departments must meet in response times, communications, levels of water flow and pressure; and other performance measures as considered necessary to meet the overall goals of improved fire prevention and control.



The training is to be offered in segments, blocks or modules (no firefighter may engage in fire fighting activities, except in response to wildland fires, until he or she has completed all firefighter one training) Support members may provide ancillary assistance to firefighters as defined by the rule;

The training may be online to allow testing to be done in person or online.

If the individual is required to test in person, then the tests must be given regionally at various times throughout the year; or if the individual is authorized to test online, then the requirements for online testing must be established.

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

*House Bill 4396, pg.37*

**Firearms**

**Senate Bill 149 (Firearms in State Custody)** relates to the disposition of forfeited or abandoned firearms in state custody.

The new law requires the recording of each gun’s serial number (if applicable) and a comprehensive description of the weapon. These changes are designed to help better identify a gun, find and return firearms and ammunition to owners (if they are eligible to own and possess them) and to allow for the sale of firearms to licensed firearms collectors, dealers, importers or manufacturers.

On or before September 1 of each year, law-enforcement agencies which have unclaimed firearms in their possession shall file an unclaimed stolen property report with the Treasurer.

**Senate Bill 353 (Possession of Firearms Exemption)**

allows individuals with a valid Concealed Carry Permit to be exempt from the National Instant Criminal Background Check System (NICS) when purchasing a firearm. It would further conform state law to federal law.

Additions in the law regarding the application for a concealed permit include the applicant’s place of birth, the applicant’s country of citizenship, and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs enforcement.

Other licensing requirements expand the addiction to alcohol and substance abuse requirement. The applicant is not an addict based on evidence within the three years immediately prior to the application.

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

*Senate Bill 507, pg.11*

*House Bill 4307, pg.21*

**Floods**

**Senate Bill 387 (Flood Managers - Disaster Prevention)** eliminates the requirement that the Office

of Emergency Services report to the West Virginia Disaster Recovery Board on debris that may cause an obstruction during disasters.

*Senate Bill 676, pg.43*

*House Bill 4015, pg.13*

*House Bill 4634, pg.5*

Since community participation in the National Flood Insurance Program is important to manage and mitigate the special flood hazard areas in West Virginia, all state, county, municipality and local floodplain managers should be adequately trained in floodplain management.

It requires all flood plain managers to complete yearly training. Starting on July 1, 2012, each floodplain manager in the state is required to complete six hours of training in floodplain management annually to maintain good standing with the West Virginia Division of Homeland Security.

A governmental unit that has a floodplain manager who fails to obtain the required training shall suspend the manager from his or her responsibilities until the training requirement is met. Until the training is completed, a floodplain manager who is in good standing is to be transferred into the unit until a trained manager can return. All associated fees also must be met and in good standing.

## Funds

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

*Senate Bill 215, pg.50*

*Senate Bill 343, pg.28*

*Senate Bill 487, pg.53*

*Senate Bill 564, pg.31*

## Funeral Services

**House Bill 4118 (Board of Funeral Service Examiners)** includes the surviving spouse and a designated individual previously chosen by the deceased as a person who may designate the manner of disposition of a deceased person's body.

## Gaming Activities

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

*Senate Bill 410, pg.53*

## Governmental Agencies

**Senate Bill 36 (Public Construction Projects)** requires the disclosure of subcontractors within one business day of the opening of bids for certain public construction contracts by the apparent low bidder when any subcontractor is providing over \$25,000 of services on the project.



The apparent low bidder on a contract for the construction, alteration, decoration, painting or improvement of a new or existing building or structure with the Department of Administration, Division of Purchasing, valued at more than \$500,000 is to submit a list of all subcontractors who will perform more than \$25,000 of work on the project including labor and materials:

This does not apply to any other construction projects, such as highway, mine reclamation, water or sewer projects.

The list will include the names of the bidders and their license numbers and must be provided to the Division of Purchasing within one business day of the opening of bids for review prior to the awarding of a construction contract. If no subcontractors are to be used to complete the project it will be noted on the subcontractor list. Failure to submit the subcontractor list within one business day after the deadline for submitting bids shall result in disqualification of the bid.

These changes will expire one year from the effective date of the bill absent further action of the Legislature.

**Senate Bill 564 (Fleet Management/Aviation Fund)** terminates the fund travel management special fund, and creates two separate special revenue accounts to be known as the “Fleet Management Office Fund” and the “Aviation Fund.”

All deposits currently in this special fund from aviation fees shall be transferred into the Aviation Fund. All funds in this special fund from the monthly fee for vehicles shall be transferred into the Fleet Management Office Fund.

Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund.

**Senate Bill 661 (Modified Employer Wage Information Required)** modifies the stated amount of wage information required to be reported quarterly by each employer to the Executive Director of Workforce West Virginia. It would also expand the list of the government agencies to which the Director may share that and other information to include agencies of state government responsible for early childhood and primary education, as well as the West Virginia P-20 longitudinal data system.

**House Bill 2278 (Archiving government records - VETOED)** preserves duplicates of state record so that the original can be destroyed and authorizes the use of other mediums when archiving records. The bill also allows county historical societies to obtain one copy of an archived state record at no charge.

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

- Senate Bill 224, pg.7*
- Senate Bill 428, pg.41*
- Senate Bill 500, pg.14*
- House Bill 4103, pg.42*

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## Governor -- Bills Requested By

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

*Senate Bill 160, pg.1*

*Senate Bill 209, pg.52*

*Senate Bill 210, pg.52*

*Senate Bill 211, pg.41*

*Senate Bill 371, pg.23*

*Senate Bill 414, pg.45*

*Senate Bill 437, pg.44*

*Senate Bill 469, pg.49*

*Senate Bill 650, pg.6*

*House Bill 4086, pg.54*

*House Bill 4087, pg.54*

*House Bill 4088, pg.54*

*House Bill 4236, pg.25*

*House Bill 4299, pg.25*

*House Bill 4351, pg.41*

## Hazardous Materials

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

*House Bill 4320, pg.27*

## Health Care

**Senate Bill 109 (Boy Scout Jamboree Medical Support)** ensures that medical professionals could volunteer at the Boy Scout National Jamboree, and that surrounding counties could provide needed school buses

and drivers. (The Summit Bechtel Family National Scout Reserve, a 10,000-acre complex, will host next year's Boy Scout National Jamboree and is slated to be the home of the 2019 World Jamboree. Each event is expected to attract tens and perhaps hundreds of thousands of people.)

**Senate Bill 535 (Chronic Disease Prescriptions)** allows nurse practitioners, physician assistants and assistants to osteopathic physicians and surgeons to prescribe medication for chronic diseases for 90 days with three 90 day refills. The bill also defines a chronic disease as a condition that lasts three or more months, and generally cannot be prevented by vaccines or cured by medication.

**House Bill 4028 (Emergency Medical Service Personnel and Agencies)** authorizes the commissioner for the Bureau of Public Health to promulgate rules relating to the temporary suspension of a certification of an individual emergency medical service provider. It provides that the commissioner may temporarily suspend the certification of an individual emergency medical service provider in certain circumstances prior to a hearing or notice.

The commissioner may rely on information supplied by a physician who serves as a medical director when temporarily suspending the certification of an individual emergency medical service provider. The commissioner is to institute proceedings for a hearing if an individual emergency medical provider's certification is temporarily suspended.

**House Bill 4077 (Dental Hygienist)** relates to activities





that may be performed by a dental hygienist without a prior exam by a dentist.

It allows placing sealants on a patient's teeth without a prior examination by a licensed dentist; provided, the dental hygienist has a Public Health Practice permit issued by the West Virginia Board of Dental Examiners and is subject to a collaborative agreement with a supervising dentist. The patient is to be referred for a dental examination within six months of the sealant application.

**House Bill 4327 (Newborn Pulse Oximetry Screening)** calls for the Commissioner of the Bureau for Public Health to require each birthing facility licensed by the Department of Health and Human Resources to perform a pulse oximetry screening on every newborn in its care, a minimum of 24 hours after birth.

Congenital heart defects are structural abnormalities of the heart that are present at birth. According to the federal Centers for Disease Control and Prevention, congenital heart defects are the leading cause of infant death due to birth defects.

Pulse oximetry is a noninvasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen; when performed on a newborn a minimum of twenty-four hours after birth, pulse oximetry screening is often more effective at detecting critical, life-threatening congenital heart defects.

**House Bill 4424 (Mental Hygiene Procedures Pilot Project)** removes the expiration date of the pilot project establishing emergency mental hygiene procedures and

continues the pilot project through July 1, 2014

After July 1, 2012, the Supreme Court of Appeals and the Secretary of the Department of Health and Human Resources may add programs for modified mental hygiene procedures in any judicial circuit that establishes a need for the same.

**House Bill 4438 (Provider Sponsored Network Act)** creates the Provider Sponsored Network Act and describes the details of the program services, legislative findings, and authorizes the Secretary of the Department of Health and Human Resources to recognize provider sponsored networks. In addition, the bill authorizes the secretary of the Department of Health and Human Resources to directly contract with provider sponsored networks.

**House Bill 4504 (Nonprofit Community Health Care Nursing Home)** relates to the development and operation of a nursing home by a nonprofit community health care organization designated by a county commission. It creates an exemption from the current moratorium on nursing home beds and establishes the prerequisite requirements for the exemption. It also mandates conformance to current certificate of need requirements.

The bill permits development and operation of certain nursing beds by a nonprofit community health care organization. The county commission will determine and designate a nonprofit community group that is to be exempt from the existing moratorium on nursing home beds. This exception is designed to develop and operate a nursing home bed facility in any county in West Virginia that currently is without a nursing home.

The nursing bed facility will be located in the county of that county commission; be operated on real property owned by the nonprofit community health care organization and designated by the county commission; will exist in a county which has been continuously without nursing home beds since prior to the nursing home bed moratorium was enacted; and, develops and operates no more than 36 nursing home beds.

The nonprofit community group applies for a license to operate the nursing home within 2 years after June 8, 2012. The establishment of a nursing home and nursing beds under this exception are required to apply for a certificate of need.

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

*Senate Bill 245, pg.50*

*Senate Bill 435, pg.52*

*Senate Bill 471, pg.17*

*Senate Bill 498, pg.52*

*Senate Bill 507, pg.11*

*Senate Bill 572, pg.9*

*House Bill 4012, pg.10*

*House Bill 4062, pg.52*

*House Bill 4481, pg.10*

## Human Services

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

*Senate Bill 498, pg.52*

*Senate Bill 611, pg.12*

*Senate Bill 677, pg.6*

*House Bill 4424, pg.33*

*House Bill 4438, pg.33*

## Insurance

**House Bill 4256 (Captive Insurance)** limits risk retention groups' risks on single subjects of insurance. No risk retention group may retain any risk on any one subject of insurance, whether located or to be performed in West Virginia or elsewhere, in an amount exceeding 10 percent of the surplus, unless approved by the commissioner.

It requires captive insurance companies to notify the commissioner in writing within 30 days of becoming aware of any material change in information previously submitted to the commissioner, including information submitted in or with the license.

**House Bill 4260 (Autism Insurance Coverage)** amends insurance coverage for the treatment of autism in children.

West Virginia's 2011 law requiring insurance coverage for autism includes cost-containment language that should resolve concerns over a proposed legislative fix of the law.

The bill would make clear that benefit caps in the new law are meant for applied behavioral analysis. Experts consider ABA treatment crucial for many children



diagnosed with autism spectrum disorders.

This diagnosis applies to neurological conditions marked by impaired thinking, feeling, speaking and the ability to relate to others. Usually first diagnosed in early childhood, the spectrum of conditions includes a severe form called autistic disorder and the much milder Asperger’s syndrome, the treatment most effective for our kids according to certified ABA analysts.

The law limits benefits to \$30,000 annually for the first three years -- children can be diagnosed as early as 18 months -- and then at \$2,000 monthly until age 18.

The bill also corrects errors undetected in the 2011 legislation that could create confusion and make it difficult to implement it. PEIA issued a financial analysis. The new law exempts plans for employers with no more than 25 workers.

**House Bill 4332 (rule making)** permits transfer from the Public Employees Retirement System into the Emergency Medical Services Retirement System of those EMS directors who have or obtain EMT certification within one year of the passage of this legislation.

**House Bill 4486 (Disclosure of Coverage)** relates to the disclosure of certain information regarding motor vehicle liability insurance coverage.

Each insurer that may cover a motorist with personal liability insurance coverage to pay all or a portion of a claim asserted against an insurance policy insuring a motor vehicle shall provide, within 30 days of its receipt of a written request from a claimant’s attorney, the limits

of any motor vehicle liability insurance policy at the time of the events that are the subject of the claim.

Disclosure of the information required does not constitute an admission that the alleged injury or damage is subject to the policy, nor shall such disclosure waive any reservation of rights an insurer may have. No information disclosed by any party shall be admissible as evidence at trial.

An insurer who fails to comply with this section is subject to a penalty of \$500, plus reasonable attorneys’ fees and expenses incurred in obtaining disclosure of the information.

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

*Senate Bill 365, pg.9*

*Senate Bill 469, pg.49*

**Interim Studies**

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

*Senate Bill 166, pg.15*

*Senate Bill 186, pg.22*

*Senate Bill 202, pg.43*

*Senate Bill 212, pg.18*

*Senate Bill 214, pg.45*

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## Internet

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

*Senate Bill 110, pg.14*

## Investments

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

*House Bill 4086, pg.54*

## Labor

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

*House Bill 4422, pg.51*

## Law Enforcement

### Senate Bill 373 (State Police Advanced Training Fees)

continues entry-level training to be provided without a fee at the West Virginia State Police Training Academy but adds a reasonable daily fee per law enforcement officers. The superintendent may hold advanced levels of training classes for other officers in the state for a reasonable fee, not to exceed \$100.

A special revenue account known as the “Academy Training and Professional Development Fund will be used to deposit and disperse any fees or other funds

available to pay for the entry level training and to defray various training costs.

Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used by the Superintendent who is authorized to expend funds from the account to offset operational and training costs; for building maintenance and repair, for purchases and for equipment repair or replacement for the West Virginia State Police Academy; and to defray necessary expenses incidental to those and other activities associated with law-enforcement training.

**Senate Bill 493 (Unmarked Law-Enforcement Car Exemption)** exempts unmarked law-enforcement vehicles primarily used for covert or undercover enforcement from sun-screening restrictions.

Existing law prohibits sun-screening devices on the windshield, the front side wings and side windows that do not meet the state requirements. An exemption in law allows unmarked law-enforcement K-9 and other emergency vehicles that are designed to haul animals to have these sun screened windows. Now, unmarked law-enforcement undercover vehicles are also exempt.

**House Bill 4281 (State Police Increase Supplemental Pay)** increases the supplemental pay of members of the West Virginia State Police in lieu of overtime pay.

The superintendent shall certify monthly to the West Virginia State Police’s payroll officer the names of those members who have worked in excess of the standard work month and the amount of their entitlement to

supplemental payment. The supplemental payment may not exceed \$400 monthly.

**House Bill 4396 (Surviving Spouses of Law Enforcement Killed on Duty)** provides that surviving spouses or designated beneficiaries of any law enforcement provider who is killed in the performance of his or her duties will be paid \$50,000 from the General Revenue Fund.

**House Bill 4626 (State Police Principal Supervisors)** increases the number of State Police principal supervisors from 17 to 19.

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

*Senate Bill 149, pg.29*

*Senate Bill 369, pg.48*

*Senate Bill 382, pg.19*

*Senate Bill 634, pg.28*

*House Bill 4053, pg.20*

## Levies

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

*House Bill 4567, pg.16*

### View Legislation Online

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## Liability

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

*Senate Bill 605, pg.39*

*House Bill 4486, pg.35*

## Libraries

**House Bill 4291 (Law Libraries)** authorizes the Supreme Court of Appeals to determine which county law libraries are being used and should be continued as an obligation of the state. The Supreme Court of Appeals may determine the appropriate number of law libraries as well as the location of the libraries and may expend funds for the purchase of books or other expenses necessary to for the operation of the county law library libraries.

The costs of the libraries, other than for provision of adequate space provided by county commissions, will be paid from appropriated judicial accounts.

## Licenses

**Senate Bill 478 (Apprentice Hunting and Trapping Licenses)** creates apprentice hunting and trapping licenses; exempting hunter training requirements for apprentice hunting and trapping licenses and establishes penalties.

Class AH, AHJ, AAH, and AAHJ licenses are apprentice

hunting and trapping licenses and entitle the licensee to hunt and trap for all legal species of wild animals and wild birds. The licenses shall be base licenses and entitle the licensee to a deferral of the proof of a certificate of training.

The apprentice hunting and trapping licensee shall not hunt or trap unless he or she is in possession of all other required documentation and stamps and is accompanied and directly supervised by an adult 18 years or older who either possesses a valid West Virginia hunting license or has the lawful privilege to hunt. “Accompanied and directly supervised” means that a person maintains a close visual and verbal contact with, provides adequate direction to and can assume control of the firearm from the apprentice hunter.

The cost of the Class AH license for residents who have reached their 18th birthday shall be \$19 and provides the same privileges associated with Class A base license. The cost of the Class AAH license for nonresidents who have reached their 18th birthday shall be \$119 and has the same privileges associated with a Class E base license. The cost of the Class AHJ license shall be \$16 for residents who have reached their 15th birthday and who have not reached their 18th birthday, and shall have the same privileges associated with Class XJ base license. The cost of the Class AAHJ license shall be \$16 for nonresidents who have not reached their 18th birthday and has the same privileges associated with a Class XXJ base license.

An apprentice hunting and trapping license is a yearly license and may only be purchased electronically in a manner designated by the director. No person who

has ever had a valid base hunting license, other than a Class AH, Class AHJ, Class AAH, or Class AAHJ license, may be issued one of the apprentice hunting and trapping licenses. No person may purchase more than three apprentice hunting and trapping licenses, and the purchases must occur within a period of five consecutive years.

Any person violating this new law is guilty of a misdemeanor.

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

*Senate Bill 336, pg.8*

*Senate Bill 353, pg.29*

*Senate Bill 424, pg.45*

*Senate Bill 528, pg.27*

*Senate Bill 588, pg.22*

*House Bill 4002, pg.10*

*House Bill 4006, pg.45*

*House Bill 4028, pg.32*

*House Bill 4037, pg.39*

*House Bill 4097, pg.45*

*House Bill 4256, pg.34*

*House Bill 4271, pg.8*

*House Bill 4274, pg.9*

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

*Senate Bill 360, pg.14*

*Senate Bill 434, pg.8*

## Local Bills

**House Bill 4630 (Braxton County Recreation Development Authority)** modifies the membership of the Braxton County Recreational Development Authority. The bill requires the approval of the Braxton County Commission and the Braxton County Board of Education on land transactions conducted by the authority.

The board shall be comprised of seven members, with five members being appointed by the Braxton County Commission, one member shall be a member of and appointed by the Braxton County Commission, and one member shall be a member of and appointed by the Braxton County Board of Education. No more than two members may represent any one magisterial district in Braxton County.

## Military Affairs

**Senate Bill 603 (Establish Morale, Welfare and Recreation Facilities)** authorizes the Adjutant General to establish morale, welfare and recreation facilities throughout the state, which is currently only authorized at Camp Dawson in Preston County. The bill will also authorize the establishment of a board, corporation or other entity to operate the facilities. Funds created from the facilities operations will be used exclusively to benefit the facilities.

**Senate Bill 605 (Liability Limitations of Landowners)** limits the liability of landowners who make land available

for law enforcement or homeland defense training. The bill expands liability limitations of landowners who grant a lease, easement, or license of land to individuals; and federal, state, county or municipal government, or any agency, when the land is used for military training.

The bill additionally adds the activity of spelunking to exempted recreational purposes.

**House Bill 4007 (Military Spouses' Unemployment Benefits)** notes that an individual who has voluntarily quit employment to accompany a spouse serving in active military service - who has been reassigned - is qualified for unemployment.

The account of the employer may not be charged for those benefits.

**House Bill 4037 (Licensing for Former and Current Military)** requires professional and occupational licensure for former and current members of the Armed Forces of the United States.

It requires consideration of military education, training and experience as qualifications for professional licensure.

During periods when the licensee, certificate holder or registrant is on active duty as a member of the Armed Forces of the United States, the National Guard, or any other military reserve component and deployed outside of this state – for six months after discharge from active duty – the license, certification or registration of a person shall continue in good standing.

The certification or registration shall be renewed without



payment of any dues or fees for the maintenance or renewal of the license, certification or registration without meeting continuing education requirements for the license when circumstances associated with military duty prevent the individual from obtaining the required continuing education.

The member of the Armed Forces is to submit a waiver request to the appropriate board, informing the board of circumstances regarding deployment outside of the United States or in any combat area. Verification that the individual performs the licensed profession as part of his or her military duties as annotated in Defense Department Form 214 (DD214) is to be made.

During periods when the licensee is accompanying his or her spouse who is on active duty as a member of the Armed Forces or National Guard and is deployed outside of the state is provided the same opportunity to receive licensure for six months after active duty. The license, certification or registration of that person regulated by a board is to continue in good standing and renewed without payment of any dues or fees for the maintenance or renewal of the license, without meeting continuing education requirements when circumstances associated with accompanying a spouse on military duty prevent the individual from obtaining the required continuing education. The accompanying spouse submits a waiver.

**House Bill 4330 (Driver’s License Designating Licensee a Veteran)** provides that driver’s licenses may contain information designating the licensee as a person who is an honorably discharged veteran of any branch of the Armed Forces of the United States.

It also provides veterans may renew licenses without cost if not expired; and redefines ‘previously licensed’ as an applicant who has held at least a level two or similar driver’s licensing level or class.

**House Bill 4433 (Veterans’ High School Diplomas)** provides high school diplomas to veterans of World War II, the Korean War, or the Vietnam Conflict, regardless of whether they were attending high school before entering the military.

Prior law required veterans to be attending high school before entering the military.

**House Bill 4493 (Special Memorial Days for Veterans)** directs the State Department of Education to implement a program involving students that recognizes the contributions made by West Virginians in the United States military.

- Establishes the observation of a week in which December 7 falls as a special memorial week as Pearl Harbor and Military Appreciation Week.
- Declares March 30 as a special memorial day to be known as Vietnam Veteran Recognition Day.
- Declares August 7 as a special memorial day to be known as Purple Heart Recognition Day.
- Declares July 27 as a special memorial day to be known as Korean War Veteran Recognition Day.

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

- Senate Bill 321, pg.50*
- House Bill 4257, pg.26*
- House Bill 4601, pg.22*



## Mines and Minerals

**House Bill 4351 (Mine Safety Regulations)** makes a number of changes to mine safety regulations. Some of the changes made in the bill include:

- Mine superintendents or owner/operators would have to review and sign off on daily mine safety reports at least once every two weeks.
- Maximum civil penalties for mine safety violations are increased from \$3,000 to \$5,000. Federal law sets maximum federal fines for most violations at \$70,000.
- A miner who attempts to forewarn other miners of an impending inspection would be guilty of a felony offense.
- It ensures underground mine equipment shuts off when explosive gas levels rise.
- It clarifies that a proposed new felony charge for willfully and knowingly violating mine safety standards, punishable by one to five years in prison, would be applicable only when safety violations result in a mine fatality.
- Changes aimed at dealing with repeat violators of state mining law would give inspectors one new tool: When they find operators who repeatedly violate standards and ignore hazards, inspectors can call in the state training board, which is then charged with instituting new educational programs at the mine in question.
- It allows surviving family members to be able to select a representative to participate in the mine fatality investigations. That representative would be any person the family selects.
- It retains provisions requiring pre-employment and random drug testing for miners and other “certified”

employees working in safety -sensitive positions in the mines, but also requires that the Office of Miners’ Health, Safety and Training conduct a study to determine whether drug testing should be extended to non-certified employees in mines.

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

*Senate Bill 497, pg.9*

*Senate Bill 579, pg.53*

## Motor Vehicles

**Senate Bill 30 (Scrap Vehicle Certificates)** applies to salvage certificates for vehicles that are scrapped, compressed, dismantled or destroyed. It will bring the West Virginia Division of Motor Vehicles into compliance with the National Motor Vehicle Title Information System (NMVTIS) language. It also provides a form to expedite the processing of salvage vehicles.

**Senate Bill 211(Texting While Driving)** creates traffic offenses for texting or using handheld cell phones while driving. Texting while driving will be a primary offense beginning July 1, 2012. Any driver seen texting while operating a vehicle may be pulled over and fined. The bill also phases in a ban on using a cell phone while driving Beginning this summer (2012), the violation will be a secondary offense. Next summer (2013), it will be a primary offense.

**Senate Bill 428 (Government Vehicle Registration)** authorizes the Commissioner of the Division of Motor

Vehicles to issue no more than five Class A registration plates to the division for vehicles to be used by investigators for commercial driver examination fraud investigation and driver's license issuance fraud detection and fraud prevention.

The commissioner is authorized to issue Class A registration plates to Medicaid Fraud Control Unit and the West Virginia Insurance Fraud Unit; deleting an outdated requirement; and providing penalties.

An outdated requirement that municipalities provide the commissioner with lists of vehicles used by their law-enforcement departments has been deleted.

**Senate Bill 429 (Class A Vehicles Redefined)** increases the maximum weight from 8,000 pounds to 10,000 pounds to include some vehicles currently defined as "Class B." Additionally, it redefines farm vehicles as "Class X."

**Senate Bill 512 (Office of Administrative Hearings)** updates statutory provisions relating to procedures of the Office of Administrative Hearings. The bill provides that written objections to revocation notices may be filed by facsimile or e-mail. It requires notices of hearing to be sent to the parties and their legal counsel. The bill also provides that the Office of Administrative Hearings has subpoena authority and that parties may enforce subpoenas in circuit court. The bill deletes language indicating that a notice of hearing sent by certified or registered mail to a law-enforcement officer constitutes a subpoena to appear. The bill also requires individuals with pending cases to provide written notice of change of address.

**Senate Bill 544 (Diesel-Powered Motor Vehicle Idling Act)** the Diesel-Powered Motor Vehicle Idling Act states that no driver or owner of a diesel-powered motor vehicle with a gross vehicle weight of 10,001 or more pounds, engaged in commerce, may allow the engine of the vehicle to idle for more than 15 minutes in any continuous 60-minute period.

This Act includes an exception for an occupied vehicle with a sleeper-berth compartment that idles for purposes of air conditioning or heating during a rest or sleep period when the outside temperature at the location of the vehicle is less than 40 degrees or great that 75 degrees Fahrenheit at any time during the rest or sleep period.

This exemption does not apply if stationary idle reduction equipment is present at the beginning of a rest period at the location of the parked vehicle.

**House Bill 4103 (Motor Carrier Industry)** consolidates government services and enforcement of laws pertaining to the motor carrier industry.

A summary of legislative findings indicated that laws pertaining to the motor carrier industry currently reside in several state agencies, divisions and departments including the Division of Motor Vehicles, Public Service Commission, Division of Highways, State Tax Department and the State Police.

The Division of Motor Vehicles is authorized and directed, and is designated the lead state agency to formulate and develop a plan for the consolidation of state government services and enforcement of laws pertaining to the regulation and taxation of the motor

carrier industry.

The Public Service Commission, Division of Highways, State Tax Department and the State Police shall cooperate with the division and provide information, aid and assistance as requested by the division to plan the consolidation of state government services and of enforcement of laws pertaining to the regulation and taxation of the motor carrier industry.

**House Bill 4338 (Value Amount of Abandoned Motor Vehicle)** raises the maximum value amount of an abandoned motor vehicle from \$2,500 to \$7,500 before someone hired by an enforcement agency may sell that vehicle at a private sale or auction. The bill requires an additional \$10 fee be paid to the Division of Motor Vehicles for titling an abandoned vehicle.

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

*Senate Bill 493, pg.36*

*Senate Bill 618, pg.17*

*House Bill 4330, pg.40*

## Municipalities

**House Bill 4279 (Municipality Office Terms)** permits municipalities to stagger the terms of elected officers.

Municipalities with officers serving two-year terms may lengthen the term to four years for half their elected officers. Municipalities with officers serving four-year terms may shorten the term to two years for half

their elected officers. After the terms are shortened or lengthened, those officers affected shall resume their original term length.

**House Bill 4315** permits a new class IV town or village to select a form of government.

Class IV towns or villages may choose from either the “Mayor-Council Plan,” “Strong-Mayor Plan,” “Manager Plan,” or “Manager-Mayor Plan.”

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

*Senate Bill 343, pg.28*

*Senate Bill 618, pg.17*

*Senate Bill 634, pg.28*

*House Bill 4489, pg.49*

## Natural Resources

**Senate Bill 202 (U.S. Forest Service Contracts)** permits the Division of Forestry to enter into stewardship contracts with U. S. Forest Service.

The Division of Forestry is permitted to enter into stewardship contracts and agreements with the US Forest Service. Federal law authorizes the US Forest Service to enter into stewardship with contracting projects with other public or private entities to achieve land management goals for the national forests that also help meet local and rural community needs.

**Senate Bill 676 (Chesapeake Bay Watershed Projects)**



relates to the Chesapeake Bay watershed compliance projects and extends the grant funding application date for projects to be eligible for grant funding from 2011 to 2012.

**House Bill 4322 (Coyote and Fox Hunting Lights at Night)** adds coyote and fox to the list of species in which any color artificial light is permitted for hunting at night.

It further strikes language regarding hunting while intoxicated because it is redundant in state law.

It also makes reference to Class Y special crossbow hunting permits for disabled persons.

**House Bill 4328 (Bobcats Field Tag)** removes bobcats from the list of species requiring a field tag.

This will bring bobcats into consistency with those species of fur-bearers which are required to be checked at an official game check station (e.g. beaver, fisher and otter) but are not required to be field tagged.

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

- Senate Bill 477, pg.6*
- Senate Bill 478, pg.37*
- Senate Bill 562, pg.27*
- Senate Bill 615, pg.27*
- House Bill 4087, pg.54*

**Parks & Recreation**

**Senate Bill 362 (Cacapon Resort State Park and**

**Beech Fork State Park)** authorizes the Economic Development Authority to issue \$52.5 million in bonds for capital improvements for Cacapon Resort State Park and Beech Fork State Park. The bill provides that the debt service on the bonds is payable from an additional \$3 million allocation to the State Park Improvement Fund out of the State Excess Lottery Revenue Fund.

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

- Senate Bill 517, pg.16*
- Senate Bill 605, pg.39*

**Pornography**

**Senate Bill 606 (Child Pornography)** creates a procedure for forfeiture of items related to child pornography arrests and other computer crimes and prosecutions.

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

- Senate Bill 596, pg.12*

**Prescriptions & Medications**

**Senate Bill 437 (Substance Abuse)** addresses the state's substance abuse problem by providing the oversight of pain and methadone clinics, perfects a real-time drug database and limits the distribution of products contain pseudoephedrine, which can be used to make the

dangerous and illegal drug methamphetamine. The bill also strengthens the Prescription Monitoring Program, limits the number of controlled substances prescribed in a specific time period and requiring health professionals who prescribe controlled substances to receive drug diversion and “best practice” prescribing training. It prevents individuals from buying more than 48 grams of pseudoephedrine in one year. The bill would also cap purchases at 3.6 grams per day and 7.2 grams per month. It also endorses a multi-state tracking system for these sales.

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

*Senate Bill 109, pg.32*

*Senate Bill 535, pg.32*

*Senate Bill 588, pg.22*

## **Professions & Occupations**

**Senate Bill 214 (professions and occupations)** clarifies that a sunrise review is required for the establishment, revision or expansion of a professional scope of practice.

**Senate Bill 379 (Nurse Health Programs)** authorizes the West Virginia Board of Examiners for Registered Professional Nurses to designate nurse health programs for licensees and applicants for treatment and recovery for alcohol abuse, chemical dependency or major mental illness.

The applicant is not subject to disciplinary action if the person complies with the goals and restrictions of the

program and enrolls on a voluntary basis.

**Senate Bill 414 (Medical Services Applicant Defined)** includes various additional professions under the definition of “medical services applicant” under the Volunteer for Nonprofit Youth Organizations Act.

These include podiatrist, physician assistant, chiropractor, dentist or dental assistant, nurse, nurse practitioner, occupational therapist, optometrist, pharmacist, physical therapist, professional counselor, practitioner of psychology or school psychologist, radiologist technologist and social worker.

**Senate Bill 424 (Barber Education Requirements)** exempts certain barbers from continuing education requirement Barbers who have been licensed for 20 or more years are exempt from continuing education requirements.

**House Bill 4006 (Historic Resort Regular Employee Exemption)** exempts a historic resort hotel’s regular employees, for which the employees are paid regular wages and not a contract price, on property owned or leased by the historic resort hotel which is not intended for speculative sale or lease; or, employees of the federal government.

**House Bill 4097 (Hair Styling License)** relates to the Board of Barbers and Cosmetologists’ license to practice hair styling. “Hair Styling” means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, waving, permanent waving, relaxing, straightening, shampooing, cleansing, singeing, bleaching, tinting, coloring, waxing, tweezing, threading or similarly work on human hair, or a wig or hairpiece, by any means, including hands, mechanical or electrical devices or appliances;

The rubbing, cleansing, exercising, beautifying or grooming of another person's face, neck, shoulders, hands, elbows and feet up to and including the knee.

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

*Senate Bill 535, pg.32*

*Senate Bill 572, pg.9*

*House Bill 4037, pg.39*

*House Bill 4077, pg.32*

*House Bill 4118, pg.30*

## **Public Employees**

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

*Senate Bill 185, pg.9*

*House Bill 4332, pg.35*

## **Public Service Commission**

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

*House Bill 4530, pg.56*

## **Railroads**

**House Bill 4345 (Unauthorized Sale of Railroad Scrap Metal)** states "railroad scrap metal" means any materials derived from railroad track, railroad track material, worn or used links, pins, journal bearings, or other worn, used, or detached appendages of railroad equipment or railroad track. Only a duly authorized individual, agent, officer or employee of a company may sell or dispose of railroad scrap metal owned by the company.

If a duly authorized individual sells or disposes of railroad scrap metal in quantities less than one ton, he or she must receive of sale or other written evidence of authorization from the company.

If a civil lawsuit comes into play where the company claims to be the rightful owner of the scrap metal in the possession of a purchaser, the company may seek an immediate order from the court to physically preserve any railroad scrap metal which is the subject of the suit, and any other metals with which they may have been confused, while the suit is pending.

If the purchaser cannot produce the bill of sale or other written evidence to sell the railroad scrap metal, the court shall presume that the subject railroad scrap metal was unlawfully taken from the company.

**House Bill 4415 (Prince Railroad Station Authority)** authorizes a Prince Railroad Station Authority to acquire and maintain the railroad station building and its supplementary parts located in Prince, West Virginia.

The station will be the primary stop for Boy Scouts



riding trains to attend the Bechtel Family Summit Scout Reserve in Fayette County. Since the railroad station is located in Prince it is a vital transportation facility for many residents in the area. It also has the potential for passenger inter-modal operations, among other economic possibilities. House Bill 4415 calls for creating and empowering a statutory corporation to work with railroad officials to acquire, renovate and maintain the railroad station building and its supplementary parts located in Prince.

The Fayette County Commission and the Raleigh County commission are hereby authorized to create and establish the Prince Railroad Station Authority. When it is created and established, its members will constitute a public corporation.

## **Real Property**

**Senate Bill 536 (State Auditor’s Receipt of Credit Card Payments)** specifies the State Auditor may accept credit cards in payment of all redemption fees, all publication fees, delinquent taxes or other charges collected in connection with the operations of the land department.

The person using the credit card as a form of payment is responsible for any charges assessed by the credit card company and acceptance of a credit card for payment shall be in accordance with the rules and requirements set forth by the credit card provided.

**House Bill 3177 (Pre-Existing Tenancy)** relates to the status and rights of parties under a preexisting tenancy and lease when residential rental property is sold by a trustee pursuant to a deed of trust.

Following the sale of residential rental property to a purchaser by a trustee, the tenancy of a tenant occupying the property under an unexpired written lease that was not recorded or was placed of record after the trustee sold the residential rental property, may be terminated by giving 90 days written notice or by giving written notice not less than 30 days prior to the expiration of a lease, whichever is shorter.

However, the tenancy of a person occupying the property under a month-to-month or other tenancy may be terminated by giving 30 days written notice.

The terms and conditions of the lease of the property remain fully enforceable during the notice period. If the tenant fails to timely comply with the terms of the lease, the new owner may proceed to evict.

The tenancy of a factory built home may not be terminated until a year after the home is placed on the site except for good cause. The tenancy for a factory-built home comprised of two or more sections may not be terminated until five years after the home has been placed on the site except for good cause.

Written notices are to be provided to the occupying tenant by regular mail, by either personal delivery to the tenant, by posting a copy of the notice on the front door of the rental real property or by certified mail addressed to the tenant. The law takes effect on the January 1,



2013.

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

*Senate Bill 551, pg.8*

*Senate Bill 605, pg.39*

*Senate Bill 621, pg.50*

of promoting the American production of iron, steel, manufactured goods, coal and timber and creating jobs through a buy American mandate, as well as the burdens and benefits of such mandate on the construction industry in West Virginia and the state’s public building and public works projects.

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

*House Bill 4345, pg.46*

## Regulation of Trade

**House Bill 4263 (“Buy American” Task Force)** calls for the Purchasing Division and the Division of Labor to create a task force created to study the use of American-made construction materials and manufactured goods in the various aspects of the construction and maintenance of public buildings and public works projects of the state and its political subdivisions which are funded in part by state grants, state loans or state appropriations.

The task force is to be made up of an architect, an engineer, a contractor, a WV manufacturer, a representative for the Division of Highways, the School Building Authority, the Water Development Authority, the General Services Division and the Higher Education Policy Commission as well as four labor representatives.

The group is to maintain a list of suppliers, review bid processes, review the percentage of domestically produced manufacturing goods to qualify it as American made materials and report to the Legislative Joint Committee on Government and Finance by Dec. 31, 2012. The report, provided by the Division of Labor and Purchasing, should include findings on the best methods

## Retirement

**Senate Bill 369 (Deputy Sheriff Retirement System Modified)** modifies the Deputy Sheriff Retirement System to allow a retiree, upon divorce, to change retirement benefit options under certain circumstances.

In the case of a retired member who has elected the Joint and Survivor Annuity or Contingent Joint and Survivor Annuity and who designated his or her spouse as beneficiary may elect to change the retirement benefit options upon divorce.

The retiree must furnish to the board satisfactory proof of entry of a final decree of divorce or annulment and meet certifications that no qualified domestic relations order, final decree of divorce or other court order that would restrict the election is in effect. And, that no cause of action against the board may arise or may be maintained on the basis of having permitted the retiree to name a new spouse as annuitant for any of the survivorship retirement benefit options.





Upon remarriage, a retiree may name the new spouse as an annuitant for any of the retirement benefit options offered using proof of marriage and that no outstanding court order is in effect.

**Senate Bill 469 (OPEB)** sets up a payment plan to pay off the state’s \$5 billion unfunded liability for future health care benefits for retired state and public school employees. The debt will be gone by 2036. The bill immediately takes about \$485 million of OPEB liability off the books of county school boards, and frees up about \$20 million in funds that some school boards had set aside in the event they were held liable for the long-term benefits. The legislation redirects \$30 million a year of personal income tax collections into a fund to pay down the long-term liability up front. Without the fund, the pay-as-you-go cost for retiree health benefits was projected at one point to grow to more than \$600 million a year. The legislation also will put \$5 million of year of personal income tax collections into a trust fund to help post-2010 hires buy health insurance when they retire.

**House Bill 4489 (Municipal Pensions Oversight Board - VETOED)** clarifies and strengthens the authority of the West Virginia Municipal Pensions Oversight Board.

**House Bill 4654 (Mailing Services of Consolidated Public Retirement Board)** requires the Consolidated Public Retirement Board to provide mailing services upon request of certain retiree organizations that represent West Virginia public retirees. The organizations may request the Consolidated Public Retirement Board to mail voluntary membership applications, dues deduction cards and other information to any group of eligible

retirees of any West Virginia public retirement plan.

It also authorizes the Consolidated Public Retirement Board to contract with a third party to provide mailing services if the third party agrees to maintain the confidentiality of the list. The CPRB is not liable for providing the mailing lists.

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

- Senate Bill 575, pg.13*
- Senate Bill 634, pg.28*
- House Bill 4332, pg.35*

## **Roads and Highways**

**Senate Bill 204 (Highway Emergency Situations)** provides a clear zone in the event that a vehicle is stopped along a highway or impedes the flow of traffic in emergency situations.

Whenever a vehicle has been stopped, parked or left standing upon any part of a controlled-access highway or constitutes an obstruction to the restoration of traffic flow as the result of an accident or other emergency, any police officer or employee of the state road commission Division of Highways, has the authority to order the removal of the vehicle, by towing or otherwise.

**Senate Bill 205 (Construction Signage)** states that at each and every location where street or highway construction work is to be done or is being conducted, signs and other traffic control devices shall be posted

giving the location of the work and notifying all motorists as to the speed limit and any other traffic restrictions.

The specific 1000-foot distance the signs were to be placed from the site and the wording, which notes, “when workers are present” have been removed from state law. Penalties of up to \$200 for speeding through a site continue to remain intact.

This bill is to update language to reflect current standards used by the Division of Highways and identified in the Manual of Uniform Traffic Control Devices

**Senate Bill 215 (Industrial Access Road Fund)** corrects current law that requires any unused industrial funds to return to the road fund.

**Senate Bill 621 (Subdivision and Land Development Plans)** requires subdivision and land development plans and plats to have a letter from the Division of Highways stating there is sufficient access to state highways.

## Rule Making

**Senate Bill 245 (rule making)** authorizes the Commission for the Deaf and Hard of Hearing to promulgate a legislative rule relating to the establishment of required qualifications and ethical standards for interpreters and transliterators.

**Senate Bill 253 (Department of Environmental Protection)** is a rules bundle for the Department of

Environmental Protection that contains 14 environmental rules authorized for promulgation.

**Senate Bill 287 (rule making)** authorizes the Insurance Commissioner to promulgate a legislative rule relating to surplus lines insurance.

**Senate Bill 321 (rule making)** authorizes the State Police to promulgate a legislative rule relating to the West Virginia State Police Career Progression System.

**House Bill 4001 (Licensing Boards)** authorizes licensing boards to establish fees by legislative rule notwithstanding specific fees established in Code.

**House Bill 4139 (rule making)** authorizes the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to the procedures, criteria and curricula for examinations and licensure of Barbers, Cosmetologists, Manicurists and Aestheticians.

**House Bill 4142 (rule making)** authorizes the Consolidated Public Retirement Board to promulgate a legislative rule relating to the West Virginia State Police.

**House Bill 4206 (rule making)** authorizes the Commissioner of Highways to promulgate a legislative rule relating to the construction and reconstruction of state roads.

**House Bill 4220 (rule making)** authorizes authorize the Division of Natural Resources to promulgate a legislative rule relating to prohibitions when hunting and trapping.

## Safety

**Senate Bill 597 (Installation of Carbon Monoxide Detectors)** requires the installation of carbon monoxide detectors in various public facilities, including hotels, motels, hospitals, long-term care facilities, adult or child care facilities, assisted living facilities, boarding houses, dormitories, and apartment buildings.

It also calls for minimum specification requirements and testing, maintaining, repairing and replacing carbon monoxide detectors, among other provisions.

**House Bill 4422 (Crane Operator Certification)** redefines “crane” as a power-operated hoisting machine used in construction, demolition or excavation work, which has a power-operated winch and load line and a power-operated boom that moves laterally by the rotation of the machine on a carrier, and which has a manufacturer’s rated lifting capacity of more than 2,000 pounds.

People exempt from certification include a member of the Department of Defense, and an Operator-in-Training

It expands the type of equipment for which certification is required, requires adherence to standards established by the Occupational Safety and Health Administration of the United States Department of Labor, clarifies the minimum requirements for certification, authorizes the Commissioner of Labor to issue notices to cease and desist unlawful practices, authorizes the Commissioner of Labor to apply to the circuit court for injunctive relief and limits reciprocity provisions.

It also requires certain crane operators to hold certain classes of certification as of November 10, 2014. On and after November 10, 2014:

Those who operate cranes in the State of West Virginia, which are not governed by any provision of the Occupational Safety and Health Administration of the United States Department of Labor, are required to hold a Class B certification.

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

*Senate Bill 204, pg.49*

*Senate Bill 205, pg.49*

*Senate Bill 387, pg.29*

*House Bill 4125, pg.25*

*House Bill 4351, pg.41*

## Salaries

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

*House Bill 4070, pg.24*

*House Bill 4281, pg.36*

## Secretary of State

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

*Senate Bill 619, pg.15*

## Senior Citizens

**Senate Bill 435 (Residents' Personal Funds Upon Death)** makes payable upon the death of a resident, any funds remaining in his or her personal account to the executor of the estate of the resident. That if after 30 days there has been no qualification over the decedent resident's estate, those funds are presumed abandoned and are reportable to the State Treasurer.

**Senate Bill 498 (Abuse Records of Vulnerable Adults)** addresses the release to law enforcement of records regarding reports of abuse, neglect or exploitation of vulnerable adults.

It allows for greater cooperation concerning reports of abuse, neglect or exploitation of vulnerable adults among different entities, the protected person, or persons having a fiduciary relationship to the protected person. The bill allows the release of information to the perpetrator of abuse, neglect or exploitation of a protected person consistent with due process.

**House Bill 4062 (In-Home Care Providers Registry)** requires the Bureau of Senior Services to develop and publish a registry of in-home care providers. The registry is to list the providers, the services they provide and fee schedules, and verification that they have passed criminal background checks. This registry is voluntary for caregivers.

The Bureau of Senior Services will maintain an in-home care worker registry and will provide the public with the list of workers, their qualifications and those volunteers, all who voluntarily agree to be included and who have passed the National Instant Criminal Background Check

System and the West Virginia criminal history record responses criminal background check.

## Taxation

**Senate Bill 153 (Increased Tax Credits for Apprenticeship Construction Training)** increases for tax years beginning on and after January 1, 2012, the tax credit for apprenticeship training in construction trades shall be in an amount equal to \$2 per hour multiplied by the total number of hours worked during the tax year by an apprentice working for the participating taxpayer, and the amount of credit allowed for any tax year with respect to each apprentice may not exceed \$2,000, or fifty percent of actual wages paid in that tax year for the apprenticeship, whichever is less.

**Senate Bill 209 (Personal Income Tax Act)** will give the meaning of terms in the West Virginia statutes relating to personal income taxes the same meaning as those terms have under federal statutes as amended during 2011.

**Senate Bill 210 (Corporation Net Income Tax Act)** will give the meaning of terms in the West Virginia statutes relating to corporate net income taxes the same meanings as those terms have under federal statutes as amended during 2011.

**Senate Bill 386 (Waters'-Edge Group Entities)** clarifies the entities to be included in a water's-edge group for corporation net income tax purposes.



That for purposes of this subdivision, if a corporation organized outside of the United States is included in a water's- edge combined group and has an item of income that is exempt from United States federal income that corporation shall be considered to be included in the combined group only with regard to any items of income that are not exempt, taking into account items of expense and apportionment factors associated with such items of nonexempt income.

**Senate Bill 410 (Gambling Winnings Backup Withholding)** beginning July 1, 2012, every person who is required to file Internal Revenue Service form W-2G, and who is subject to backup withholding under federal law, is subject to West Virginia backup withholding. The payor in making any payment of a gambling prize subject to backup withholding shall deduct and withhold from the payment a tax in an amount equal to six and one-half percent of the payment.

The purpose of this bill is to make West Virginia law consistent with federal law on withholding of personal income tax on gambling winnings.

**Senate Bill 430 (Streamlined Sales and Use Tax Agreement)** updates Code provisions in order to conform to the Streamlined Sales Tax Agreement. The bill adds computer software maintenance contracts as a Streamlined Sales and Use Tax Agreement. It also relieves a seller of the tax liability in certain instances, eliminates monetary allowances for certain sellers, provides new effective dates, clarifies state administration of state and local sales and use taxes, bases and exemptions.

**Senate Bill 487 (Coalbed Methane Gas Distribution**

**Fund)** establishes the Coalbed Methane Gas Distribution Fund in the State Treasurer's Office.

It authorizes the Tax Commissioner to deposit natural gas severance tax moneys into the fund and directs the State Treasurer to distribute moneys in the fund to county economic development authorities or corporations or county commissions. It also authorizes distribution by the State Treasurer of accumulated moneys from fiscal years 2009, 2010, 2011 and 2012 to county economic development entities.

As well, the bill specifies the permissible uses of Coalbed Methane Gas Distribution Fund moneys received by county economic development entities. Projects in the state which are likely to foster infrastructure improvements and covers post mining land use, water or wastewater facilities, stormwater systems, steam, gas, telephone and telecommunications, broadband development, electric lines and installations, roads, bridges, railroad spurs, drainage and flood control facilities, industrial park development, road or buildings that promote job creation and retention.

The West Virginia Development Office no longer has to approve of use of fund moneys.

**Senate Bill 555 (Sales and Use Tax Exemptions for Non-Profit Youth Organization)** adds an exception to the limitation on the right of a contractor to assert sales and use tax exemptions of a purchaser when the purchaser is a nonprofit youth organization.

**Senate Bill 579 (Mine Clean Up Tax Hike)** raises the tax on processed coal from 14 cents to nearly 28 cents

per ton. It would dedicate 15 cents of that rate toward treating water on these abandoned sites.

Officials estimate the hike would increase the tax's annual revenues from \$19 million to \$36 million. The water reclamation trust fund would get \$20 million of that per year.

**House Bill 4068 (Antique Motor Vehicles for Property Taxes - VETOED)** provides that antique motor vehicles be valued at their salvage value for personal property tax purposes.

**House Bill 4086 (Manufacturing Facility Tax Relief)** establishes tax relief for certain properties designated as a qualified capital addition to a manufacturing facility.

The relief is extended on the valuation of qualified capital for 25 years succeeding the year in which the qualified capital addition is first placed in service.

**House Bill 4087 (Timber Tax Exemption)** continues the existing exemption on the state's timber industry from the severance tax on natural resources. The timber industry will continue to avoid a natural resources tax in West Virginia intended to help that industry weather a fragile economic recovery.

The Legislature agreed to exempt timber companies from the state severance tax for four years, starting in 2009. The legislation extends that until 2016. Timber severance taxes usually support the state Division of Forestry. Officials there say a reserve fund is helping the agency avoid program or staff cuts while the exemption lasts.

**House Bill 4088 (WV Telecommunications Act Repealed)** repeals the WV Telecommunication Tax but preserves provisions governing the confidentiality of and exemptions from disclosure of certain information received by tax commissioner during the study of the business of telecommunications service and related businesses.

## Technology

**Senate Bill 563 (Office of Technology Rule)** makes the Office of Technology will be responsible for retiring and transferring information technology and equipment that may contain confidential or privileged information.

Computers must be cleaned using methods commensurate with the date, decommissioning agency, and the planned disposition of the device before the transfer or other disposal. Following cleansing, the Chief Technology Officer is authorized to distribute the information technology equipment for reuse or by another state spending unity. The officer is also authorized to send the equipment to an authorized recycler or send it to a certified information technology refurbisher.

The transfer and disposal is exempt from surplus property requirements and the office of technology must promulgate rules to accomplish this purpose.

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

*Senate Bill 385, pg.19*

*Senate Bill 606, pg.44*

*House Bill 4271, pg.8*

## **Tourism**

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

*House Bill 4415, pg.46*

## **Treasurer (State)**

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

*Senate Bill 149, pg.29*

## **Unemployment Compensation**

**House Bill 4542 (Overpayment of Benefits)** does not relieve contributory and reimbursable employers of benefit charges to their accounts if an overpayment of benefits established after July 1, 2012 is the result of the employer's failure, or the failure of third party agents acting on the employer's behalf, to provide requested information timely or to adequately allow the agency to accurately determine is the result of the employer's failure to provide requested information timely or to adequately allow the state to accurately determine a claimant's eligibility for benefits.

### **House Bill 4549 (Fraudulent Statement Penalties)**

imposes a penalty on unemployment compensation recipients for obtaining benefits through the use of fraudulent statements or actions. A portion of the penalty is to be used for increased activities to identify and recover erroneous payments of benefits for fraudulent activities of recipients.

After July 1, 2012, a penalty of 20% of the amount of the erroneous payment attaches to the amount to be repaid by the recipient for any payment of benefits determined to be obtained by the person's fraudulent statements or actions.

The first 75% percent of the penalty collected from the benefit violator is to be deposited in the state's Unemployment Trust Fund with the remaining 25% to be deposited in a special administrative account. These monies are to be used for increased integrity activities to identify and recover erroneous payments of benefits created by fraudulent activities. Penalty amounts due to fraudulent activities of recipients may not be used to offset future benefits payable to benefit recipients.

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

*House Bill 4007, pg.39*

## **Uniform Laws**

**House Bill 4251 (Uniform Commercial Code)** amends the Uniform Commercial Code and improves

the system for filing financing statements. The bill also provides greater protection for an existing secured party having a security interest in after-acquired property upon relocation of debtor, and reforms the correction statement process.

### **House Bill 4390 (Uniform Power of Attorney Act)**

will repeal the Uniform Durable Power of Attorney Act and replace it with the Uniform Power of Attorney Act. The new Act provides protections for those who deal with a power of attorney. It also prevents financial abuses against a principal. Under the new Act, a power of attorney is referred to as and “agent” instead of and “attorney in fact.” A power of attorney is durable unless it is specifically stated that the power is terminated by the incapacity of the principal. A power of attorney must also be signed by the principal and acknowledged before a notary public or other person authorized to take acknowledge before a notary public or other person authorized to take acknowledgments. The Act does not affect the validity of pre-existing powers of attorney if executed in compliance with the prior law, powers of attorney executed in another jurisdiction and military powers of attorney.

## **Utilities**

**House Bill 4530 (Low-Interest Bonds to Slow State’s Electric Rates)** permits utility companies to seek low-interest bonds backed by the state should ensure that West Virginian’s electric rates are slowed significantly under the authority of the Public Service Commission.

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

*Senate Bill 212, pg.18*

*Senate Bill 623, pg.9*

## **Vendors**

### **Senate Bill 659 (Certain Employee Background Checks)**

requires the director of the Division of Protective Services to require any vendor, contractor, subcontractor and their employees who are conducting business with the state to submit to a fingerprint-based state and federal background inquiry.

They must submit to the inquiry if they will be either physically present at any state facility or grounds or have access to sensitive or critical information.

The bill also requires all contracts between the state and vendors, contractors and subcontractors to contain a provision allow the state to prohibit a person from being present on state grounds or have access to sensitive information.

## **Vetoed**

*Senate Bill 408, pg.19*

*Senate Bill 477, pg.6*

*Senate Bill 547, pg.20*

*Senate Bill 623, pg.9*





*Senate Bill 634, pg.28*

*House Bill 2278, pg.31*

*House Bill 4068, pg.54*

*House Bill 4489, pg.49*

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[www.legis.state.wv.us/Bill\\_Status/bill\\_status.cfm](http://www.legis.state.wv.us/Bill_Status/bill_status.cfm)

**Water Resources**

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

*Senate Bill 676, pg.43*

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**2012 - 2013 Interim Committee Meetings**

<b>May</b>	<b>14 - 16, 2012</b>
<b>June</b>	<b>25 - 27, 2012</b>
<b>July</b>	<b>23 - 25, 2012</b>
<b>August</b>	<b>13 - 15, 2012</b>
<b>September</b>	<b>10 - 12, 2012</b>
<b>October</b>	<b>8 - 10, 2012</b>
<b>November</b>	<b>26 - 28, 2012</b>
<b>December</b>	<b>10 - 12, 2012</b>
<b>January</b>	<b>7 - 9, 2013</b>
<b>February</b>	<b>10 - 12, 2013</b>

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