



# WRAP-UP

THE OFFICIAL NEWSLETTER OF THE WEST VIRGINIA LEGISLATURE

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Lawmakers extended the Regular Session until May 26th to better address the state budget and to rework some vetoed legislation. Legislators corrected 17 bills that were vetoed for technical problems – title errors or other deficiencies not related to the substances of the measures – then repassed these bills to meet the objections of the Governor. The Regular Session adjourned Sine Die on May 31, 2009.

## WEST VIRGINIA BUDGET BILL – Fiscal Year 2010 Committee Substitute for House Bill 2010

### Overall Highlights

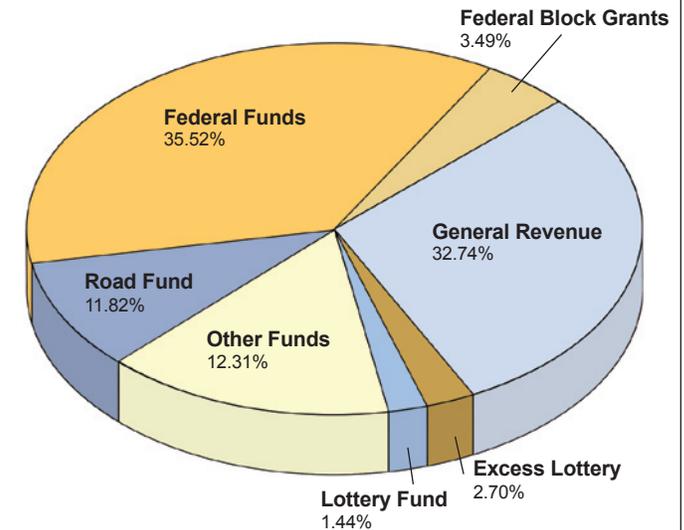
The Governor’s introduced version of the budget bill as presented in February contained a total General Revenue appropriation of \$3,971,794,588 with all accounts being fully funded.

Mid session, revised revenue estimates led to a reduction of total General Revenue available for appropriation by \$197,493,639, leaving the total General Revenue available for appropriation at \$3,788,000,000.

Expenditure reductions were across the board and ranged from 2% to 10% and included:

1. The elimination of the OPEB (Other Post Employee Benefits) as contained in the original proposed bill. This elimination freed \$51 million.
2. The reduction of the Medicaid appropriation from the original proposed bill. This reduction freed up \$47 million and will be backfilled with enhanced FMAP funding, resulting in no reduction.
3. The Governor’s Civil Contingency Fund appropriation was eliminated. The Legislature’s Traffic account and the appropriation for the Enterprise Resource Planning System (ERP) were eliminated, resulting in an additional \$38 million in savings. These eliminated line items are currently considered one-time eliminations and will be reconsidered for restoration next budget cycle.

### Total Budget, FY 2010



### Total Budget Breakdown

General Revenue	3,787,976,953
Road Fund	1,367,137,215
Special Revenue	1,424,170,416
Lottery	166,010,000
Excess Lottery	312,118,000
Federal Funds	4,108,936,130
Federal Block Grants	403,321,924
<b>Total</b>	<b>\$11,569,670,638</b>

Data provided by House of Delegates Committee on Finance

4. Public Education (available for Federal Stabilization Funding) was reduced by \$23 million and Higher Education was reduced by approximately \$11,000,000. This reduction will be immediately replaced with Federal Stabilization Funding. Federal Guidelines dictates that states must use their allocations to help restore for FY2009, 2010, and 2011 support for public education (school aid formula) and higher education to the greater of the FY2008 or FY2009 level.

This totaled \$167,000,000 in cuts. Only \$31,000,000 of ongoing cuts were left to be made to come up with the approximately \$198 million in reductions.



As a result of the economic downturn, the fixed payment of \$289.7 million for the Teacher's Retirement System, Unfunded Liability was increased to \$330.8 million, Public Employees Insurance Premiums required an additional \$15.6 million, Public Safety Retirement Plan A Unfunded Liabilities required an additional \$8.6 million and State Police Retirement B required an increase of 3% to the employers match resulting in an additional appropriation of \$624,000. The employer contribution for PERS, increasing the employer match from 10.5% to 11% cost an additional \$1.7 million. Each of these items is projected to be substantially higher next year when the budget bill is presented

The state's share of Federal Stabilization Funding is \$266 million. \$48 million is for Government Services funding and \$218 million is for Education Stabilization funding. This funding is to restore cuts in Public Education (formula funding only) and Higher Education that may take place over the next two years. Remaining Education Stabilization funding after the restoration of support for public education (school aid formula) and higher education for 2010 and 2011 budgets, the state must then award the funds to county boards of education. That distribution is based on each county's Title 1 appropriation, but is not subject to Title 1 program requirements.

For FY2010, Public Education will use approximately \$23,000,000 of Stabilization funds and Higher Education will use approximately \$11,000,000.

Public Education (School Aid Funding Formula) will not see a budget cut for the upcoming budget year or next year. However, once the stabilization funding is gone, we are required to fully fund the State Aid Formula.

Higher Education, FY2009 appropriation is the highest of the two years, so that is our starting point when it comes to just how much can be backfilled. The Federal Stabilization funding can only be used to backfill the reductions to the current FY2009 appropriations. No capital, financial aid, tuition or research qualifies for Education Stabilization funds, only operating. The state budget office asked HEPC to provide new numbers that reflected a 10% cut when compared to the Governors recommendation. Several factors were taken into consideration when looking at the final reductions that were provided by HEPC. The Budget Office

then made other adjustments to finally come up with the new adjusted Governors numbers for the Higher Education adjusted numbers. Essentially, the schools were cut by approx 3% when compared to the Governor's introduced bill, some institutions may have been slightly higher.

The Local Share included in the Governor's original bill was \$12 million less than what was actually received. Due to the delayed consideration and passage of a budget bill, the Governor was able to capture that additional funding to use in his revised estimates. That money would normally have been available for legislative appropriation.

Federal Stimulus Funding is being used to restore the reductions to the Department of Health and Human Resources budget for Medicaid. An additional \$47 million was cut from the Governor's original budget proposal, but due to the federal stimulus funding it will be a net reduction of zero.

BRIM (Board of Risk and Insurance Management) appropriations were reduced to match actual billing prices.

Different than the originally proposed bill, the Federal Funds and Federal Block Grant portion of the budget contains the addition of several line item changes. The addition of budget activity 891, Federal Economic Stimulus, is included with estimates for possible stimulus funding to be received during the next fiscal year.

Other adjustments of interest in the bill include reductions to the Community Participation funding for cities, counties and local organizations. The Governor had suggested a revised expenditure reduction of 10% to most of those lines, but the final committee substitute includes a 2% reduction for those line items. Line items contained under the Lottery account, Division of Culture and History were reduced by 5% instead of 10%. The Fairs and Festivals line item (appropriation for all the listed fairs and festivals) was reduced by 2% instead of 10%. We did not have to reduce any of the listed fairs and festivals because there were several that were canceled and non compliant which freed up additional funding to cover the cut. The 4-H Camp Improvements appropriation has been moved from its own line item to the Local Economic Development Assistance line item within the Development Office.

## Highlights in the Final Conference Committee HB 2010

**Secretary of State** - \$175,000 was added for Technology and equipment upgrades

**Commerce** - \$25,000 was restored back to the I-79 Development Council; \$15,000 was restored back to the Coal Mine Safety and Technical Review Committee Coal Forum; \$145,000 was added for the Coal Mine Safety Technology Task Force

**Public Education** - contains some cuts that were recommended by Dept. of Education instead of the Governors recommended cuts. Also the Governor's adjusted numbers decreased the Technology Infrastructure line item in lottery by \$9,700,000 and moved it to a new Broadband line item. This bill moved this funding back to the Technology Infrastructure line item. Restored \$15,000 to the WV Commission for Holocaust Education. \$6,200,000 for Student Enrichment Programs that was in the Governor's introduced bill (HB2832 died during Regular Session) has been taken out. \$5,000,000 has been added for Technology System Specialists. A new program that will allow the State Department of Education to make available matching grants of \$40,000 to county boards of education for each learning technology proficient school with a minimum net enrollment of 450 students for a full-time Technology System Specialist to be employed within the school. (Language has been added in the House Budget Bill for this program). State Department of Education's Personal Services was restored \$93,350 and Unclassified was restored back to the FY2009 level. The High Acuity Special Needs line item was reduced by \$250,000 in anticipation of federal stimulus money being used for this purpose.

**Education and the Arts** - \$75,000 has been added to Culture and History for the Grants for Competitive Arts Program. \$15,000 has been added to this agency for the South Eastern Museums Conference and \$100,000 has been added for the Sesquicentennial Celebration. Under the Library Commission, approx. \$57,000 has been restored to the Services for the Blind and Handicapped line item when compared to Governors adjustment numbers. Center for Professional Development line item under the Office of the Secretary account was reduced by couple hundred thousand.

### Department of Health and Human Resources

**Division of Health-** \$130,000 was added to the Cardiac Project line item for a total of \$500,000; The line for Epi-

demology Support was restored to a total of \$1,733,837; The line for Primary Care Support was restored to a total of \$8,849,423; \$500,000 was added for Health Right Free Clinics; and \$35,000 was appropriated for the Diabetes Education and Prevention Program.

**Consolidated Medical Services Fund** - The line for Institutional Facilities Operations was reduced by \$100,000

**Division of Human Services** - The line for WV Teaching Hospitals Tertiary/Safety Net was increased by \$1.5 million; In-Home Family Education was increased by \$500,000; Grants for Licensed Domestic Violence Programs was increased by \$1 million; and the line for Medical Services was decreased by \$3,561,000 which will be back-filled by the increased Medicaid FMAP.

**Military Affairs and Public Safety** - Mountaineer Challenge was restored to its own line in the amount of \$1,500,000

**Department of Revenue** - The line for Pay Equity Reserve was restored to the FY 2009 level in the amount of \$250,000

**Higher Education** - \$100,000 has been included for the Luke Lee Learning Center at Marshall. This program will teach deaf children from birth to age 6 to listen and speak so they may be successful in mainstream hearing society. \$100,000 has been added for the WV Alzheimer Disease Register. SB112 passed during session of 2006 that created this register and we never funded it. The HEPC unclassified was restored back to the FY2009 level minus a one time appropriation.

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### Governor's Line-Item Veto Summary

The following Line Items contained within HB 2010 had parts or all of their funding vetoed by the Governor out of the FY 2010 Budget Bill as passed by the Legislature. Numbers in parentheses represent the activity number as it is cited in the Budget Bill.

**Health Right Free Clinics (727)** - \$4,249,336.00 - Governor vetoed \$500,000

**In-Home Family Education (688)** - \$1,250,000.00 - Governor vetoed \$500,000

**Grants for Licensed Domestic Violence Programs and Statewide Prevention (750)** - \$2,500,000.00 - Governor vetoed \$1,000,000

**Technology System Specialists (062)** - \$5,000,000 - Governor vetoed entire amount

## Other Extended Session Legislation

**Senate Bill 239 (County Metro Government)** authorizes counties with a population exceeding 150,000 and a Class I municipality to approve metro government by a majority vote. This bill changes the percentage vote required to approve metro government from the previous 55 percent.

**Senate Bill 414 (GOHELP)** relates to the creation of the Governor's Office of Health Enhancement and Lifestyle Planning (GOHELP) This bill transfers the powers and duties of the Pharmaceutical Cost Management Council to the office and creates the position of director within the office. Also, the bill grants the office rule-making authority and exempts it from Purchasing Division requirements.

**Senate Bill 501 (Gas Chamber Euthanization)** prohibits the euthanizing of animals by means of a gas chamber.

**Senate Bill 528 (County General Funds)** will allocate a portion of each recording fee paid to the clerk of the county commission into the county general fund instead of being retained by the clerk for the operation of that office.

**Senate Bill 695 (Public Employee Sick Leave)** caps the amount that eligible employees receive for unused sick leave at \$25,000, whether in one payment or multiple payments. It provides that employees hired before July 1988, the maximum monthly salary for purposes of calculating the daily rate of pay is \$6,700 (\$80,400 annually), and for eligible employees hired after July 1988, the maximum monthly salary for purposes of calculating the daily rate of pay is \$4,200 (\$50,400 annually).

It allows the Secretary of Administration to adjust the highest monthly salary for calculation by rule, if necessary. The bill also provides that higher education employees with a contract term other than 12 months are not eligible to participate. Payment would be made upon verification by the Department of Administration that the employee was eligible, as opposed to only in June and December.

**Senate Bill 715 (Chesapeake Bay Watershed)** protects the Chesapeake Bay Watershed from pollution by establishing nutrient reduction projects and a funding program

that will allow existing and future wastewater treatment facilities to provide and maintain affordable and high quality infrastructure services. The bill directs the Department of Environmental Protection and affected stakeholders to establish a nutrient trading and offset program for wastewater treatment discharges to the Chesapeake Bay. It also directs the parties to recommend a funding program to the Legislature to fund the capital improvements needed at the wastewater treatment facilities to reduce nutrient discharges to the Chesapeake Bay.

**House Bill 2423 (Board of Medical Imaging and Radiation Therapy Technology)** updates the code relating to the Board of Medical Imaging and Radiation Therapy Technology. The bill specifies that board members will be appointed by the Governor with the advice and consent of the Senate. The bill removes the licensure exemption for a person who practices in this state for less than 10 days, and permits Nuclear Medicine Technologists or certified PET Technologists to administer radiopharmaceuticals and/or ionizing radiation.

The bill also permits a person who has obtained national certification as an MRI technologist to obtain a MRI license and extends the time an apprentice license can be renewed from one to four years.

**House Bill 2535 (Solar Energy Tax)** creates a tax credit for the installation of solar energy systems on residential structures. The credit will be for up to 30 percent of the purchase and installation costs of up to \$2,000. The system must use solar energy to generate electricity, heat or cool a structure, provide hot water for use in the structure and to provide solar process heat. This credit may be carried forward if not used, until it is used. The state tax commissioner is given authority to promulgate legislative rules to administer the new credit.

The bill also requires the Public Service Commission to adopt a rule requiring electric utilities to provide a rebate or discount at fair value, to be determined by the Commission, for electric generation provided by customers under a net metering arrangement. The PSC will also consider, within the scope of its required general investigation, allowing an increase in kilowatt capacity for both commercial and residential customer-generators.

**House Bill 2701 (Escape)** creates a misdemeanor offense for escape from community-based staff secure facilities, and a felony offense from hardware-secure detention centers and juvenile correctional facilities. The bill sets forth criminal penalties for these offenses, i.e., confinement for a year for a misdemeanor conviction and five years for a felony conviction. The bill additionally establishes conditions of release.

The bill also establishes venue in the county where the escape occurred, and allows for, upon agreement of all parties that if the person committing the offense is a juvenile, the venue may be returned to the original committing court.

**House Bill 2771 (WV Alcohol & Drug-Free Workplace Act)** includes political subdivisions in the West Virginia Alcohol and Drug-Free Workplace Act. It requires contractors who have a contract in excess of \$100,000 with a state agency or political subdivision to submit documentation that they have complied with the requirements of the act before final payment is made on the contract. The documentation will be submitted to the awarding agency annually if the contract lasts longer than one year.

The drug testing program will test for marijuana, cocaine, and opiates including hydromorphone, oxycodone, hydrocodone, phencyclidine, amphetamines, barbiturates, benzodiazepines, methadone and propoxyphene. Contractors governed by the U.S. Department of Transportation's drug testing are exempt from these provisions.

**House Bill 2926 (Requirements for County Commissioner)** requires a candidate for county commissioner to be a resident of the magisterial district for which he or she is seeking election on the last day for filing to be a candidate or at time of appointment. It also sets forth the procedure for challenging a candidate's qualifications, including petitioning the circuit court and Supreme Court review.

**House Bill 3120 (WV Prosecuting Attorneys Institute)** increases the WV Prosecuting Attorneys Institute's executive council from five to seven members. It also permits the appointment of special prosecutors in juvenile delinquency, child abuse or neglect proceedings.

**House Bill 3170 (WV Guardianship & Conservatorship Act)** amends the West Virginia Guardianship & Conservatorship Act and clarifies the filing and review of the periodic accounting of conservators of incapacitated persons.

**House Bill 3194 (Falsifying Documents)** creates a criminal penalty for signing a document required to be filed with the Secretary of State which a person knows is false and will be guilty of a misdemeanor and, upon conviction, will be fined up to \$1,000 or confined in jail up to one year, or both.

**House Bill 3197 (Litter Prevention Officers)** authorizes municipalities that have adopted anti-litter ordinances to appoint special litter prevention officers whose duties include the enforcement of municipal anti-littering ordinances. These officers shall be vested with the power to issue citations, summonses and sign complaints.

**House Bill 3288 (Mental Health Insurance Parity)** makes state law comply with recent federal law changes to mental health insurance coverage parity. Actual increases in costs will determine whether cost containment measures can be applied to employer groups of 50 or more. If the group health plan experiences over a two percent increase in actual total costs, they can implement cost containment procedures for the plan year following the request. The current "anticipated cost" method still applies to groups of less than 50.

### First Extraordinary Session 2009

Following passage of 17 measures and the finalization of the FY 2010 Budget during an Extended Regular Session, lawmakers were convened into the 1st Special Session of 2009 to deal with certain bills that failed during the Regular Session. They passed 13 measures that had been debated during the 2009 Regular Session as well as two supplemental appropriation bills to deal with financial crises.

**House Bill 102** adjusts gross receipts from pari-mutual race-tracks with West Virginia Lottery racetrack table games. It increased percentages of racetrack table games revenues that are distributed to host counties and municipalities.



**House Bill 103** creates the Alternative and Renewable Energy Portfolio Act, which established a minimum alternative and renewable energy portfolio. By the year 2025, at least 25 percent of the electric energy sold to retail customers in this state is to be generated from alternative and renewable energy resources.

**House Bill 104** continues the Motor Fuel Excise Tax Shortfall Reserve Fund although a specific date (June 30, 2013) has been set to terminate the fund.

**House Bill 105** reclassifies retail liquor licenses. Liquor licenses run on a 10-year cycle and are up for re-bidding. The measure allows standalone stores to opt out of competitive bidding and would allow them to pay the minimum bid plus 10 percent. The bill also allows retailers to pay half of the cost of their license renewal up front and the remainder over 5 years.

**House Bill 109** establishes zones of educational innovation that will allow school employees to collaboratively devise and implement 21st Century school improvement strategies that are currently restrained and/or restricted by policies issued by the state board or the West Virginia Code.

**House Bill 113** reissues revenue bonds for tourism and education and provides a procedure for selecting projects that are to receive moneys from the bonds.

**Senate Bill 1001** helps struggling third- and fourth-grade students get back up to par with their peers through a summer instruction program. The additional in-school, after-school or summer school instruction would cover deficiencies in reading, math, or language arts.

**Senate Bill 1002** allows the development of pay rates and employment requirements to support the recruitment and retention of certain classified service positions at Mildred Mitchell-Bateman Hospital and William R. Sharpe Hospital. The Legislature found that the two mental health facilities have extreme difficulty in recruiting and retaining health care providers and other employees who assist in the direct service of medical care to patients.

**Senate Bill 1003** establishes the High-Technology Business Property Valuation Act, making some high tech materials and tangible personal property exempt from the consumers sales and service tax and the use tax. In addition the bill calls for taxing

high-tech companies at their salvage value, which is five percent of actual value. The measure is designed to encourage high-tech companies to locate Internet “server farms” in the state.

**Senate Bill 1006** revises dates for action with respect to hiring, termination, resignation or transfer of teachers and school personnel so that hiring determinations may be made earlier in the year to better allow county boards to recruit new teachers. It also allows county school boards to hire graduating college seniors, pending their obtaining a teacher’s certificate. This change permits school boards to participate at job fairs.

**Senate Bill 1009** provides a tax deduction for creation of trusts to support children with autism and also establishes the procedure of creating the funds.

**Senate Bill 1010** allows a county commission to adopt an ordinance that limits the areas of the county in which a business may offer “exotic entertainment”. However, changes in an ordinance prior to the passage of this bill may not affect an existing business.

**Senate Bill 1011** expands the Office of Coalfield Community Development’s authority to develop post-mining land use plans for mountaintop-removal sites. This would assure the participation of the office in working with local economic development authorities in developing post-mine sites.

**Senate Bill 1014** provides \$26.5 million to assist flood victims throughout the state.

**Senate Bill 1015** provides \$21 million to ease the backlog of past-due payments owed by the state’s Public Defender Services. The program reimburses attorneys who are asked by judges to represent poor people in criminal and other cases.

<b>Interim Committee Meetings 2009</b>	June 15-17
	July 14-16
	August 10-12
	September 14-16
	October 13-15
	November 17-19
	December 7-9
	January 10-12 2010
	<i>Dates subject to change.</i>