

# The Legislature

West Virginia School Boards Association



March 28  
2005

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## Bill Edition

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## Seventh Week’s Bills Reviewed

By Howard M. O’Cull, Ed.D.

Listed below are the West Virginia Senate and House of Delegates bills introduced March 21-25.

Friday (March 25) was the last day to introduce House bills; March 21 was the last day to introduce Senate bills. (Bills, however, may originate in committee.)

Bills are listed topically, beginning with public education bills. A series of education-related bills follow. Lastly, some measures are cited briefly. Senate bills are listed first.

Unless noted, committee substitute bills (committee measures substituting alternate language or provisions in a bill as originally introduced) aren’t reported. Nor is the listing complete for bills originating in committee. A total 113 bills are reviewed.

For a copy of any bill, please contact the West Virginia School Boards Association: 304.346.0571. You also may contact WVSBA Executive Director O’Cull: [hocull@wvsba.org](mailto:hocull@wvsba.org).

Bills also are posted on the West Virginia Legislature’s Web site: [www.legis.state.wv.us](http://www.legis.state.wv.us).

NOTE: Listing is not exhaustive.

— O’Cull is WVSBA executive director.

## PUBLIC EDUCATION

### *Compulsory Attendance*

### Bill would change cut-off date for kindergarten students

**House Bill 3349.** Revised §18-5-5 would change the cut-off date for attaining age five prior to being eligible to attend kindergarten.

For schools that operate on a semester basis, compulsory schooling would commence when the child reaches his or her sixth birthday by June 1 (fall semester) and January 1 (second semester).

The current dates are July 1, and June 30, respectively.

Sponsored by Del. Sharon Spencer, D-Kanawha. Introduced March 25. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### *County Boards of Education*

### Health boards would inspect schools for sanitary conditions

**House Bill 3130.** Revised §16-1-6 and §16-2-11 would require local

health boards to “inspect all areas of all elementary and secondary schools for health and sanitary conditions within its service area twice a school year, and to report the board’s findings each time to the principal, school board president and the county superintendent.”

A proviso states that “(I)f a serious ongoing health issue continues to exist, then (the health) board may send the report to the Commissioner of the Bureau of Public Health.”

Revised §16-1-6 would require the Bureau of Health to promulgate legislative rules establishing “standards for inspections...of elementary and secondary schools...”

Editor’s Note: This legislation was first introduced in the early 1990s, when co-sponsor Del. Bill Proudfoot, D-Randolph, was vice chairman of the House Education Committee. At the time, he was concerned about “unsanitary rest rooms,” particularly in elementary schools.

Sponsored by Dels. Bill Proudfoot, D-Randolph, and Don Perdue, D-Wayne. Introduced March 22. Referred to the House Education Committee, then House Judiciary Committee. (Perdue is chairman of the House Health and Human Resources Committee.) *Similar legislation has been introduced in past legislative sessions.*

## County purchasing would be handled through RESAs

**House Bill 3132.** Revised §18-5-13(5)(u) would require county board “purchases” to be made through Regional Education Service Agencies. (The proposal actually uses the word ‘May’ in terms of county

**The Legislature** provides county board of education members, state policymakers, school administrators, and others information, opinion and commentary regarding West Virginia legislative issues. This publication does not necessarily reflect the official views, opinions or policies of the WVSBA, unless specifically stated.

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board utilization of RESAs for purchasing, although the bill notes say the practice would be “required.”)

The legislative intent is one of “providing economies of scale and (to reduce costs).”

The measure would be effective July 1, 2006. There are four House sponsors, including lead sponsor Del. Ron Walters, R-Kanawha. Introduced March 22. Referred to the House Education Committee, then the House Finance Committee. *Similar legislation has been introduced/considered in past legislative sessions.*

## BRIM wouldn’t cover all school board liability

**House Bill 3152.** Revised §29-12-5a would allow the state Board of Risk and Insurance Management to use “its discretion” to determine BRIM liability insurance coverage.

The legislation would provide that BRIM is “not required to provide insurance for every property, activity or responsibility of county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools and school board members and for all employees and officers of the state Department of Corrections.

There are two other proposed amendments: One would require BRIM to “cover claims, demands, actions, suits or judgments (based on alleged negligence or acts that result in bodily injury or property damage...) and the other would allow BRIM to determine the amount insurance coverage is to provide.

Editor’s Note: BRIM officials have contended that some county board actions which result in liability aren’t really related to matters that “insurance” would normally cover.

An example might be matters relating to attempts to remove county board members from office, as was the case in Fayette and Pocahontas Counties a few years ago.

BRIM argued that, in those cases, the matters were outside the scope of its coverage, although the agency did pay county board expenses in the Pocahontas County case.

There are six House sponsors, including lead sponsor Del. Harold Michael, D-Hardy. This bill originated in the House Finance Committee.

## Law changing municipal boundaries would be repealed

**HB3172.** This is one of 3 proposals relating to minor boundary adjustments. Simply stated, the measure would repeal the enacting statute, §8-6-5.

Sponsored by Del. R. M. Thompson, D-Wayne (by request). Introduced March 23. Referred to the House Judiciary Committee.

## Bill concerns impact fees; county commission role

**House Bill 3191.** Revised §7-20-6 related to the collection of impact fees, which applies to counties experiencing population growth with accompanying greater demands on public service needs.

Under terms of this proposal, impact fee collection would be

“exempt” from the requirement that the county commission adopt a comprehensive zoning ordinance as a prerequisite to collection of these fees.

Editor’s Note: This legislation mainly affects Eastern Panhandle counties. There are four House sponsors, including lead sponsor Del. Craig Blair, R-Berkeley. (Additional sponsors include two Berkeley County Delegates and one Delegate from Jefferson County.) Introduced March 24. Referred to the House Political Subdivisions Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Banking institutions wouldn’t need bond if in FDIC

**House Bill 3275.** Revised §18-9-6 would allow federally-insured depositories to accept county board moneys for deposit without posting a bond or other assets.

Funds must be placed in a deposit-matching network that provides for federal insurance from the Federal Deposit Insurance Corporation (FDIC) for the full amount of the deposit.

There are five House sponsors, including lead sponsor Del. R. M. Thompson. Introduced March 25. Referred to the House Banking and Insurance Committee, then House Judiciary Committee.

## Curriculum

### ‘Fetus models’ would be displayed in schools

**House Bill 3124.** Proposed §16-2J-1 would require all middle and secondary schools in the state to “display, in a prominent and public place, a set of fetal models that depict the size and appearance of the ‘unborn child’ in the womb (in) at least five stages of development.”

The “fetal models” are to be displayed for at least two “one-month periods during each school year, one of these months ending before (Dec. 15), and the other beginning after (Jan. 15) in the following calendar year.”

Note: The U.S. Supreme Court of Appeals case, *Roe v. Wade*, was decided on Jan. 23, 1973, and is a date commemorated by both those who support abortion rights and those who oppose abortion.

There would be a \$300-a-day penalty for not displaying the “fetal models.”

Sponsored by Del. Larry Barker, D-Boone. Introduced March 22. Referred to the House Education Committee, then House Judiciary Committee.

### Religious program would be taught; state board rules

**House Bill 3244.** Revised §18-2-9 would require the West Virginia Board of Education to implement a program to teach religion in public schools.

The WVBE is to “develop policies and programs that encourage teaching about religious liberty and religion in ways that are constitutionally permissible and educationally sound.”

The state board is directed to “acquaint school administrators, school boards and teachers with policies pertaining to teaching about religion.”

Additionally, the WVBE is to alert textbook publishers to the “importance of the treatment of religion and religious liberty in textbooks,” and to seek funding from the “private sector for statewide staff development programs focused on helping teachers to teach about religion and religious liberty.”

The WVBE also is to inform “teacher training institutions of the importance of perservice education about religion for social studies teachers.”

Sponsored by Del. Tom Louisos. Introduced March 25. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### ‘West Virginia Remembers’ patriotism program sought

**House Bill 3334.** Proposed §18-2A-8a would create a program for veterans to share their experience in the military with public school students.

The program aim is for students to learn about “military service, patriotism and courage in the defense of our country from veterans who volunteer to share their experiences in the educational setting.”

Teacher participation in the program would be voluntary and “may not be considered a course requirement or mandatory in any other way.”

The West Virginia Board of Education is to promulgate rules to implement the program.

There are eight House sponsors, including lead sponsor Del. Tim Armstead, D-Kanawha. Introduced March 25. Referred to the House Veterans Affairs and Homeland Security Committee.

## School Employees Generally

### Bills relates to evaluations; lesson plans teacher’s property

**Senate Bill 610.** Revised §18A-2-13 would change existing law relating to school employee evaluations (professionals) so that evaluations are conducted “at the discretion of the principal.”

Under current law, evaluations are to be conducted every three years for teachers who have five or more years’ teaching experience and who haven’t received an unsatisfactory rating, unless the principal determines that “an evaluation fro a particular school employee is needed...”

#### Lesson Plans

Another bill provision relates to lesson plans, saying lesson plans are the property of the teacher and that any teacher “receiving a satisfactory or better evaluation does not have to make their lesson plan available to *any person*.”

Additionally, teachers couldn’t be required to “write agendas, essential questions, objectives or other items the classroom teacher finds unnecessary.

“Administrators may not be required to sign lesson plan books

of tenured employees who are not on a plan of improvement or evaluate extra-curricular coaching positions on a yearly basis.”

Sponsored by Sen. Vic Sprouse, R-Kanawha. Introduced March 21. Referred to the Senate Education Committee.

The House companion is **House Bill 3350**. It is sponsored by Del. Spencer. Introduced March 25. Referred to the House Education Committee, then House Finance Committee.

### Faculty Senates

A related bill, **SB611**, would amend §18-5A-5 so that faculty senates would determine whether any new program or curriculum could be implemented in a school.

The companion House Bill is **HB3114**. It is sponsored by Del. Spencer. Introduced March 21. Referred to the House Education Committee, then House Finance Committee.

Editor’s Note: These two measures grew out of a series of meetings the West Virginia Education Association held throughout the state last fall, largely in response to a West Virginia Department of Education initiative which emphasized techniques to improve student achievement (West Virginia Achieves).

As part of that effort, WVEA made Freedom of Information (FOIA) requests relating to costs of administrator training related to West Virginia Achieves, although the organization hasn’t released that information.

West Virginia Achieves is the state “umbrella” of coordinated efforts to meet the federal No Child Left Behind mandates.

Sprouse is Senate Minority Leader. *Similar proposals have been introduced/considered in past legislative sessions.*

## School employees wouldn’t collect dual benefits

**Senate Bill 635**. Revised §18A-4-10 and §18A-4-15 would prohibit school employees from collecting both temporary total disability benefits and personal leave with cause during the same period of illness.

The proposed legislation states that “it is the intent of the Legislature to make the treatment of personal leave with cause as it relates to temporary total disability benefits consistent with the treatment of sick leave of other employees of the state and its political subdivisions...”

Under terms of the bill, if a school employee were to receive a salary “less than year-round,” he or she couldn’t receive any Workers Compensation benefits during the period the employee would “not have received (a salary) from the county board unless the employee establishes that his or her compensable injury is preventing him or her from obtaining a specifically identified job for the period he or she is not receiving (paid salary).”

A proviso says the employee may receive permanent partial or permanent total disability benefit payments throughout the year if his or her benefit payments are reduced to an amount so that the total annual WC benefits equal the amount of WC benefit he or she “otherwise would have been paid if the employee received a (WC) benefit payment only during the months he or she would have received (paid salary) from the county board.”

### Service Personnel Substitutes

The bill would add a provision which states that “(nothing in statute) prohibits a school service person awarded (WC) benefits

while recovering from injury or illness from returning to work on a trial basis...”

When returning to work on the trial basis, the employee may perform other duties if the injury or illness prevents the employee from “performing his or her original duties (or) the (employee) is released to perform his or her other duties by the treating physician.”

Sponsored by Sen. Robert Plymale, D-Wayne. Introduced March 21. Referred to the Senate Education Committee, then Senate Finance Committee.

## Teacher subs could work unlimited days annually

**Senate Bill 645**. Revised §18A-2-3 would allow substitute teachers to work an unlimited number of days per year.

A bill provision relating to the section expiring in 2006 would be removed.

Sponsored by Sen. Sprouse. Introduced March 21. Referred to the Senate Education Committee, then Senate Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Bus driver out-of-state seniority would count

**House Bill 3189**. Revised §18A-4-8g would allow bus operators, in determining seniority, to carry-over years of experience they have had operating buses in “another state or county.”

Sponsored by Del. Blair. Introduced March 24. Referred to the House Education Committee, then House Finance Committee.

## School sex education counseling would be allowed

**House Bill 3210**. Proposed §18A-2-14 would allow school employees, “upon request of any student, or when it appears to be in the best interest of the student...to educate, explain, counsel or assist a student regarding basic sex education, social expectations and roles of men and women, and birth control methods, including abstinence, medications, devices and abortion.”

The bill applies to “any person employed by, compensated or providing any services for the (West Virginia Board of Education) or any county board.”

The information shared between the school employee and student would be privileged (“confidential”), and “no person” could be compelled to disclose the information “given in such confidence.”

There are exceptions in cases where the school employee may believe that the student has been a crime victim or a victim of “any form of abuse.”

In this case, the employee “may notify the appropriate authorities without being held in violation of (the proposed section of law).”

There are three House sponsors, including lead sponsor Del. Barbara Hatfield, D-Kanawha. Introduced March 24. Referred to the House Education Committee.

## Bill concerns ‘public conveyance’ drivers’ assaults

**House Bill 3213.** Proposed §61-2-16a would establish the crime of malicious assault, unlawful assault, battery and recidivism of battery and assault on a “driver,” conductor, motorman, captain or any other person in charge of vehicles used for “public conveyance.”

Various fines and penalties would be established (misdemeanors, felonies).

Editor’s note: This legislation doesn’t strictly address school bus operators, although, given its definitions, it would appear they are covered by its provisions.

There also have been several instances of such assaults on Kanawha Valley Rapid Transit Authority (KRT) bus drivers, one of which occurred late last year.

There are three House sponsors, including Del. Joe Delong, D-Hancock. Introduced March 24. Referred to the House Judiciary Committee.

## Persons in bankruptcy would notify court if job change

**House Bill 3251.** The purpose of this legislation is to require persons who have filed bankruptcy to notify the appropriate court if or when changing jobs so that proper garnishment of wages can occur.

There are seven House sponsors, including lead sponsor Del. Larry Williams, D-Preston. Introduced March 25. Referred to the House Judiciary Committee.

## Bill concerns alternative teacher education programs

**House Bill 2528.** This measure creates an alternative program for teacher education and preparation, requiring the candidate to meet the educational, testing, citizenship, moral and physical requirements to become a teacher.

Additionally, these individuals must receive a criminal background check and obtain a certificate issued by the West Virginia Board of Education.

The bill limits employment of these teachers to fill shortage areas only.

Following completion of an alternative certification program, the school principal prepares a comprehensive evaluation report relating to the candidate’s performance, submitting this to the state superintendent of schools.

In doing so, the principal makes one of three recommendations with respect to the issuance of a professional certificate: approve; insufficient; or disapprove.

The measure includes a three-phase practicum.

Phase I would require a daily observation rather than full classroom supervision. Phase II includes period of at least 10 weeks’ intensive on-the-job supervision and evaluation by a professional support team (principal, classroom teacher, higher education faculty member and curriculum supervisor). Phase III requirements would be determined by the professional support team, with at least

one formal evaluation at the completion of the phase rather than more specific requirements.

Eighteen semester hours of instruction are required.

The certificate can be renewed twice.

There are several other provisions.

Editor’s Note: **SB720** contains similar provisions. That bill was on Senate Education’s agenda last week. Action was deferred, however, so Senate Education can receive this bill.

**SB720** is sponsored by Sens. Plymale and Larry Edgell, D-Wetzel. Introduced March 21. Referred to the Senate Education Committee, then Senate Finance Committee.

**HB2528** has three House sponsors, including lead sponsor Del. Thomas Campbell, D-Greenbrier. Introduced Feb. 21. Referred to the House Education Committee, then House Finance Committee.

Editor’s note: The House Finance reference was waived. *Similar proposals have been introduced/considered in past legislative sessions.*

## School Employee Salary Proposals

### WVEA pay plan introduced

**SB606.** Revised §18A-4-2 would provide teachers a 15 percent pay increase over a three-year period.

This bill is the same as **HB3103**, which is reviewed in the March 21 issue of this publication.

There are 22 Senate sponsors, including lead sponsor Senate President Earl Ray Tomblin, D-Logan. Introduced March 21. Referred to the Senate Education Committee, then Senate Finance Committee.

There are two additional salary proposals:

**HB3241** would provide teachers a salary increase, based on residential housing costs.

The bill establishes a formula so that the increase is two percent of the employee’s regular salary for every 10 percent that residential house prices in the employee’s county exceed the statewide average for residential homes.

There are nine House sponsors, including lead sponsor Del. John Overington, R-Berkeley. Introduced March 25. Referred to the House Education Committee, then House Finance Committee.

**HB3290** would provide an additional \$5,000 salary increase for teachers who are certified mathematics and science teachers, teaching these subjects in grades 7-12.

The increase also would apply to certified reading specialists.

Sponsored by Del. Samuel J. Cann, D-Harrison. Introduced March 25. Referred to the House Education Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### Four service personnel salary proposals introduced

**House Bill 3131.** Revised §18A-4-8j would allow school service personnel mechanics, in terms of experience, to count the “amount of years as a mechanic in either the public or private sector...special training as a mechanic or any specific certifications held...(to be)

considered in the mechanic's pay rate..."

Bill provisions would apply "for both present employees and potential employees," with the pay rate commensurate with the "amount" of experience, training or certification the mechanic holds. The bill's intent is to ensure that mechanic's salaries "stay competitive with the private sector."

**HB3133** would establish the school service personnel Class Titles "Administrative Assistant" and "Legal Secretary."

Administrative assistants are employees who would assist the county superintendent or other administrators in charge of various county-level functions such as instruction, maintenance, transportation, food services, operations, etc. and who "exercise significant administrative duties."

Legal assistants are those employees who assist county board legal counsel or other employees "primarily engaged in (transcribing or preparing) transcripts of grievance or other hearings," and who have several related duties in these areas.

Administrative Assistant and Legal Assistant would be Pay Grade "H," the highest school service Pay Grade.

### **\$100 Per Month Increase**

**HB3147** would give school service personnel a \$100 per month pay increase, beginning July 1.

**HB3240** makes a number of revisions in school service personnel compensation statutes.

It is similar to several school service personnel pay-related proposals previously reviewed. Refer to various issues of *The Legislature*.

**HB3131** has four House sponsors, including lead sponsor Del. Steven Kominar, D-Mingo; **HB3133** has seven House sponsors, including lead sponsor Del. Mike Caputo, D-Marion; **HB3147** has 11 House sponsors, including lead sponsor Del. Mary Poling, D-Barbour; and, **HB3240** is sponsored by Del. Charlene Marshall, D-Monongalia. All bills were introduced March 22. Referred to House Education Committee, then House Finance Committee. *Similar proposals have been introduced in past legislative sessions.*

## *School Aid Formula*

### **WVDE would get funding for increased pupil enrollments**

**House Bill 3227.** The purpose of this legislation is to provide the West Virginia Department of Education a \$2.4 million supplemental appropriation for "Student Increased Enrollment."

Sponsored by Del. Charles S. Trump IV, R-Morgan. Introduced March 25. Referred to House Finance Committee.

## *School Building Authority*

### **Contractors would be excluded from B&O**

**House Bill 3129.** Revised §8-13-5 would exclude income to contractors for work done for public schools from municipal Business and Occupation taxes.

There are 10 House sponsors, including lead sponsor Del.

Everette Anderson, R-Wood. Introduced March 22. Referred to House Education Committee, then House Finance Committee.

### **Building projects would have to meet completion timelines**

**House Bill 3162.** The purpose of this legislation, which applies to all "government construction contracts," to include a definitive completion date, and that contractors who receive contracts from public entities are to meet those deadlines.

There is a \$1,000 per day penalty for not meeting the deadlines, although extensions could be granted for circumstances such as inclement weather.

Change orders couldn't exceed 20 percent of the estimated building costs, unless a contract "option" allows for such.

The Secretary of the Department of Administration is to propose legislative rules to effectuate the bill's provisions.

There are five House sponsors, including lead sponsor Del. Caputo. Introduced March 23. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then Government Organization Committee.

### **Prevailing wage wouldn't apply for school construction**

**House Bill 3267.** Revised §21-5A-12 would exempt construction performed on behalf of any educational authority, including a county board, from the prevailing wage laws.

There are four House sponsors, including lead sponsor Del. Overington. Introduced March 25. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *Students Generally*

### **Failing written drivers test: \$5 per each additional attempt**

**Senate Bill 647.** The purpose of this legislation, which amends §17B-2-6, is to require applicants for an instruction permit to operate a motor vehicle who fail the written test two or more times to pay an additional \$5 fee for each additional testing procedure.

There are other provisions. Sponsored by Sen. John Unger, D-Berkeley, and three other senators. Introduced March 21. Referred to the Senate Transportation and Infrastructure Committee, then Senate Finance.

### **Immunizations exemption proposed; based on beliefs**

**House Bill 3238.** This legislation is similar to **SB523**, which is reviewed in the March 14 edition of *The Legislature*.

In general terms, it would provide an exemption from mandatory immunizations for students.

The exemption is based on conscientious or religious belief. There are several sections.

Sponsored by Dels. John Ellem, R-Wood, and Danny Wells, D-Kanawha. Introduced March 25. Referred to the House Education Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *West Virginia Board of Education*

### **Vendor preference: Workers with health benefits**

**Senate Bill 632.** Similar to **HB2809**, this measure would establish a vendor preference for vendors who certify that they provide health benefits to their employees.

Sponsored by Sen. Brooks McCabe, D-Kanawha. Introduced March 21. Referred to the Senate Finance Committee.

### **‘Managing for results’ measure proposed**

**Senate Bill 633.** This proposal would require state agencies, including the West Virginia Board/Department of Education, to develop various goals, mission statements, objectives, performance and efficiency measures, etc. relating to “managing for results,” which is defined as a “planning, performance measurement, and budgeting process that emphasizes uses of resources to achieve measurable results, accountability, efficiency, and continuous improvement in state government programs.”

Agencies apparently would sit down with the Director of the Division of Administration to select no more than six agency goals. The goals must be compatible with the Managing for Results Act, which would include at least 10 statewide goals and 50-100 performance measures to reach those goals.

Goals also must be consistent with the agency’s mission if the goals identified in the state plan don’t “apply to the agency.”

When agency budgets are submitted, they must include the agency’s mission statement, agency goals, objectives and performance measures as well as performance statistics for the last two fiscal years.

Agency progress toward meeting goals and performance measure also must be included, as well as various descriptions relating to internal controls and a report concerning stakeholders or customers served.

There are several other provisions.

Sponsored by Sen. John Unger, D-Berkeley. Introduced March 21. Referred to the Senate Government Organization Committee.

### **Bill relates to state superintendent qualifications**

**House Bill 3239.** Revised §18-3-1 would remove the requirement that the state superintendent of schools have a Master’s in educational administration.

Sponsored by Del. Bob Tabb, D-Jefferson. Introduced March 25. Referred to the House Education Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### **Bill freezes employee numbers at Jan. 1 level; exceptions**

**House Bill 3264.** Proposed §5F-1-5 would disallow state agencies from employing more than the number of personnel they had as of Jan. 1, 2005.

There are provisions for departments or agencies who, because of federal or state requirements, including court orders, must add additional personnel.

Sponsored by Del. Armstead. Introduced March 25. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then House Finance Committee.

### **Jobs Impact Statement would be required of state agencies**

**House Bill 3318.** This is the same as **SB135**. Refer to the Feb. 14 issue of *The Legislature*. This bill, if enacted into law, would require a “Jobs Impact Statement” to be filed with the state Development Office if proposed legislation which may cause an impact on the West Virginia economy.

It relates to various agencies of government.

There are four House sponsors, including lead sponsor Del. Armstead. Introduced March 25. Referred to the House Industry and Labor, Economic Development and Small Business Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## **DOCTORAL PROGRAM** *Educational Leadership Studies*

### **West Virginia University College of Human Resources & Education**

A new cohort for school administrators leading to an Ed.D. in educational leadership studies will begin with courses this summer.

For more information contact:  
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# EDUCATION-RELATED

## *Alcohol*

### **Beer would not be sold in unlicensed places**

**Senate Bill 742.** Proposed §11-16-5a et. seq. would address the manufacture, sale, possession, distribution, furnishing or giving away of beer (nonintoxicating beer) in unlicensed establishments.

Among other things, the bill says where beer is given away contrary to the law, is a “common and public nuisance.”

Those who aid and abet or knowingly associates with others in “maintaining a common and public nuisance” would be guilty of a misdemeanor. Additionally, the establishment would be required to close.

If two or more persons conspire to maintain a public nuisance, as defined by the bill, each of the parties would be guilty of a misdemeanor.

The final bill provisions relate to forced closure of these establishments and the ability of law-enforcement officers to use search warrants to “search the house or other place for nonintoxicating beer.”

There are other provisions.

The bill originated in the Senate Finance Committee March 24. There are 16 Senate sponsors, including lead sponsor Sen. Walt Helmick, D-Pocahontas.

Helmick is Senate Finance chairman.

## *Child Abuse*

### **Falsely reporting child abuse would be crime; penalties**

**Senate Bill 618.** Proposed §61-8D-10 would make it a crime (misdemeanor) to make a “false report of sexual or physical abuse of a child” to a law enforcement agency or to Child Protective Services personnel.

Sponsored by Sen. Sprouse (by request). Introduced March 21. Referred to the Senate Judiciary Committee.

**HB3252** is a similar bill. The fine would be at least 40 hours’ community service.

The individual also would be responsible for the accused’s attorney fees, court costs and lost income incurred as a result of the false child abuse charge.

Sponsored by Del. Bonnie Brown, D-Kanawha. Introduced March 25. Referred to House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### **Bill increase penalties for child abuse - more jail time**

**House Bill 3173.** Revised §61-8D-3 would increase penalties for conviction of child abuse charges.

Fines/penalties would be increased from 2 to 10 years in prison (currently 1 to 5 years in prison), or, as determined by the court, face imprisonment for up to 2 years. The jail term is in addition to various fines, and the crime would remain a felony.

There are seven House sponsors, including lead sponsor Locke Wysong, D-Jefferson. Introduced March 23. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### **CPS staff would get pay raise**

**House Bill 3206.** Under terms of this measure, Division of Child Protective Service workers would receive a 15 percent pay increase.

There are 11 House sponsors, including lead sponsor Del. J.D. Beane, D-Wood. Introduced March 24. Referred to the House Finance Committee.

## *Child Safety*

### **ATV exception for persons under 18 would be stricken**

**House Bill 3326.** Revised §17F-1-1 would strike a current provision of law that allows persons under age 18 to ride an All-Terrain Vehicle if the person has a “minimum level two intermediate driver’s license or its equivalent or is age 18 or older.”

Sponsored by Del. Jon Amores, D-Kanawha. Introduced March 25. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## *Child Support*

### **Child support collection time would be extended**

**Senate Bill 656.** Revised §38-3-18 would allow for collection attempts for child support enforcement to extend beyond the current 10-year statute of limitations.

Sponsored by Sen. Michael Oliverio, D-Monongalia. Introduced March 21. Referred to Senate Health and Human Resources Committee, then Senate Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### **Child care would be added as part of support ‘formula’**

**House Bill 3184.** Revised §48-13-502 would include education-related child care expenses in the statutorily-established formula for child support calculation.

There are other provisions.

Sponsored by Del. Kominar and three other Delegates. Introduced March 22. Referred to House Judiciary Committee.

A related bill – same sponsors – would change the definition of “substantial change in circumstances” for the purpose of a modification of child support from a 15 percent change to either a 15 percent change or a \$75 change, whichever is less.

The bill is **HB3185**. Introduced March 24. Referred to House Judiciary Committee.

A third bill, **HB3340**, would exclude dues, fees and expenses that are necessary to maintain membership in an organization, professional licensure or occupational or professional certification from the calculation of gross income for purposes of determining child support payments.

(Political contributions would be excluded from the above.)

There are three sponsors, including lead sponsor Del. Patti Eagloski Schoen, R-Putnam, lead sponsor. Introduced March 25. Referred to House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Crimes

### Bills relate to meth production

**Senate Bill 605**. This 8-page bill has several provisions relating to the production of methamphetamine, including a section that would make it a felony if any parent causes the death of a child by “knowingly allowing such child to be present in a dwelling, vehicle, or within the immediate vicinity...where (the) parent...or other person is manufacturing, cultivating, or attempting to manufacture or cultivate a controlled substance...”

An additional bill provision would create the crime of child abuse due to the child’s presence in a place where controlled substances are being manufactured.

There are other provisions.

A related bill, **Senate Bill 621**, would expand the crime of wanton endangerment to include one’s participation in the operation of a clandestine drug lab.

The bill amends a section of code relating to wanton endangerment as a result of use of destructive devices, explosive material or incendiary devices.

There are five Senate sponsors, including lead sponsor Sen. Billy Wayne Bailey, D-Wyoming. Introduced March 21. Referred to Senate Judiciary Committee.

**SB605** was sponsored by Sen. Sprouse. Introduced March 21. Referred to Senate Judiciary Committee.

Sen. Sprouse also has sponsored **SB715**. That bill would provide an “amnesty day” for voluntary admission of meth manufacturing.

County prosecutors would determine penalties and fines, including rehabilitation.

Introduced March 21. Referred to Senate Judiciary Committee.

Additionally, refer to **HB3331**. It would create the crime of chemical battery in terms of exposing various persons such as humane officers, Emergency Medical Service personnel, firefighters, mass transportation system personnel and other individuals to “toxic chemicals, fumes, vapors, and spills inherent in the operation or the attempted operation of a clandestine drug laboratory capable of producing...methamphetamine.”

There are other provisions, including sections relating to penalties and fines.

There are four House sponsors, including lead sponsor Del. Armstead. Introduced March 25. Referred to the House Judiciary Committee.

## Felony would apply if harassing informants

**House Bill 3137**. This bill has several sections concerning “crimes against public justice” such as harassing or intimidating public officials or jurors.

A newly proposed provision would make it a crime to harass people for giving information regarding crimes to law-enforcement officials.

There is a 10-year jail term, upon conviction; other fines and penalties.

Sponsored by Del. Linda Sumner, R-Raleigh. Introduced March 22. Referred to House Judiciary Committee.

Also refer to **HB3212**. It has the same provisions as those cited above in regard to harassing informants who provide information to law-enforcement officers.

Sponsored by Del. Ron Thompson, D-Raleigh, and Amores. Introduced March 24. Referred to House Judiciary Committee.

### Careless driving crime sought

**HB3179**. There are other bills on this subject, which would establish the crime of careless driving.

That term means operating a motor vehicle on a street, road or highway without “due care and attention or without reasonable consideration for other persons using the street, road or highway.”

It includes such driving upon the “property of any county boards of education” (among other agencies cited).

The fine is a misdemeanor, with additional fines in cases where careless driving results in death or bodily injury.

There are three House sponsors, including lead sponsor Del. Nancy Houston, D-Monongalia. Introduced March 23. Referred to House Judiciary Committee.

### Bills relate to sex offenders

**HB3214**. This measure would mandate the administration of polygraph testing for persons convicted of a sex crime and later released on probation or parole.

The polygraph testing is to be used only as a risk assessment and management tool.

There are four House sponsors, including lead sponsor Del. James H. Morgan, D-Cabell. Introduced March 24. Referred to House Judiciary Committee.

**HB3336** would restrict a registered sex offender from knowingly entering the proximity of a school or other facility for minors.

There are four House sponsors, including lead sponsor Del. Mitch Carmichael, R-Jackson. Introduced March 25. Referred to House Judiciary Committee.

**HB3341** would require male sex offenders either to undergo an orchiectomy (removal of testes) or receive a life sentence in jail.

There are 11 House sponsors, including lead sponsor Del. Greg Eldridge, D-Lincoln. Introduced March 25. Referred to House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Spyware disclosure required

**House Bill 3246.** The purpose of this legislation, which amends sections of Code relating to the state Computer Crime and Abuse Act, would require distributors of software products containing spyware, to make such known to the consumer, and would prohibit spyware from being used to collect personal information (among various other types of data).

Sponsored by Del. Ray Canterbury. Introduced March 25. Referred to House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Bill would ban ‘upskirting’

**House Bill 3282.** Proposed §61-8-28A would make it unlawful to take films of any person’s “intimate areas” without that person’s knowledge or consent.

The bill covers taking of such pictures or films in any location, public or private.

It addresses what is known as ‘upskirting,’ according to the bill note, a practice which is more pervasive given cameras available on cellular telephones or palm pilots.

There are five House sponsors, including lead sponsor Del. Rick Staton, D-Wyoming. Introduced March 25. Referred to the House Judiciary Committee.

## Disease testing sought for those committing battery

**House Bill 3284.** Revised §61-2-9 would require that persons accused of committing a battery submit to a test for infectious diseases.

The accused person must pay the cost for the tests.

(Battery is where one maliciously assaults another with the intent to cause him or her bodily injury such as maiming, disfiguring, disabling or killing.)

Sponsored by Dels. Patrick Lane and Walters (by request). Introduced March 25. Referred to House Judiciary Committee.

## *Elections*

## Late campaign report-filers would be publicized

**Senate Bill 638.** Revised §3-8-7 would provide the Secretary of State authority to publish the names of any candidate, financial agent or treasurer of a political party committee who fails to file a campaign financial report in a timely manner.

Sponsored by Sens. Jon Blair Hunter, D-Monongalia, and Russ Weeks, R-Raleigh. Introduced March 21. Referred to Senate Judiciary Committee.

The companion bill is **HB3249**. It is sponsored by Del. Trump. Introduced March 25. Referred to House Judiciary Committee.

## Technical cleanup proposed

**Senate Bill 642.** This legislation would make some technical clean-

ups in a section of code relating to post-election custody of vote recording devices for use in canvasses and recounts.

Sponsored by Sens. Hunter and Weeks. Introduced March 21. Referred to Senate Judiciary Committee.

## Campaign records would be maintained for 2 years

**Senate Bill 662.** Companion to **HB3035**, this legislation would establish a 2-year time frame for maintaining election campaign records and receipts.

Sponsored by Sens. Hunter and Weeks. Introduced March 21. Referred to the Senate Judiciary Committee.

## Teams of trained election volunteers would be allowed

**Senate Bill 663.** Companion to **HB2962**, this bill would provide the Secretary of State the authority to place teams of three trained observers, each of differing party and nonparty affiliations, in the county central counting centers on election days.

Sponsored by Sens. Hunter and Weeks. Introduced March 21. Referred to Senate Judiciary Committee.

## Party registration deadline would be extended in Primary

**Senate Bill 711.** Companion to **HB3002**, this bill would clarify that the deadline for one to register to vote in a Primary Election is “no later than the close of voter registration.” (Current code says 30 days before the Primary Election.)

Sponsored by Sens. Hunter and Weeks. Introduced March 21. Referred to Senate Judiciary Committee.

## Voter cards would accompany hunting license purchases

**House Bill 3122.** Revised 3-2-11 would allow the Director of the Division of Natural Resources, designated county issuers and agents, to provide each qualified voter a voter registration application form when the individual is renewing a hunting or fishing license.

There are 11 House sponsors, including lead sponsor Speaker Robert Kiss, D-Raleigh. Introduced March 22. Referred to House Judiciary Committee.

## Computer election device tampering would be crime

**House Bill 3281.** Proposed §3-9-25 would make it a crime to access, tamper or delete any computer or computer network that contains voter registration files, records or data.

There are other provisions.

Sponsored by Dels. Amores and Kevin Craig, D-Cabell. Intro-

## *Higher Education*

### **Bill provides Marshall and WVU greater ‘flexibility’**

**Senate Bill 603.** This 234-page bill, as passed by the state Senate, provides Marshall and West Virginia Universities added ‘flexibility.’

The general notions or underlying reasons for this ‘flexibility’ is explained in the March 25 issue of *The Legislature* in an article written by House Education counsel Candace Kraus.

Thus, only the Center for Professional Development (CPD) bill provisions will be reviewed.

The House companion bill (original legislation) is **HB3121**. It was introduced by Speaker Kiss and Minority Leader Trump (by request of the governor) on March 21. Referred to the House Education Committee, then House Finance Committee.

These are among bill provisions relating to the Center for Professional Development:

- Includes “paraprofessionals” in professional development and collaboration efforts.
- Requires MU and WVU to collaborate with CPD in performing the Center’s duties. Collaboration is to at least include teacher preparation institutions in professional staff development. The collaboration also may include research-based “expertise” that will aid in designing professional staff development, and arranging for other teacher preparation institutions to assist CPD.
- All teacher preparation institutions are required to collaborate with the Regional Education Service Agency (RESA) in which the institution is located. The purpose of this collaboration is to prevent unnecessary duplication; assist in the implementation of RESA professional development programs; and, to assist in grant procurement.
- MU is to collaborate with RESA IV in that no higher education institution exists in that service area.
- MU and WVU, in each of their designated coordination areas, are to coordinate the other teacher preparation institutions’ collaboration with RESAs.

#### **Universities’ Coordination Areas**

- WVU’s coordination area includes RESAs V, VI, VII and VIII.
- MU’s coordination area includes RESAs I, II, III and IV.
- The West Virginia Board of Education is to ensure that each RESA is collaborating with the teacher preparation institution(s) in its service area.
- RESAs are to inform the CPD board prior to the RESA obtaining professional development-related services or expertise from any higher education institution “outside” of that RESA’s service area.

#### **CPD Reconstituted**

- The CPD is to be reconstituted on July 1.
- The number of WVBE members is reduced from 3 to 2.
- One MU and one WVU representative is added (chosen by those universities’ presidents). They must be faculty in the teacher education division of the institutions.
- The CPD board is to include one RESA director chosen by the RESA directors.
- Of the three required experienced educators, one is to be a classroom teacher; one is to be a principal; and, one is to be county administrator.

#### **Executive Director Position Abolished**

- The position of CPD Executive Director is abolished July 1. A “director” is to be appointed by the governor with the advice and consent of the senate. The CPD board fixes the director’s compensation. (Editor’s note: The original Senate Education proposal called for the CPD to be lead by a Chief Executive Officer. Senate Education struck that language, using the term ‘director.’) The director serves at the will and pleasure of the governor, and the Center is permitted to employ staff. The director is to be evaluated annually, with the results reported to the governor.
- Several director-related duties are established, including ensuring that the Center’s “mission” be accomplished; successful collaboration with other professional development providers; Requesting and procuring adequate resources for professional development; and, serving as chair of the Principals Standards Advisory Council.
- The legislation outlines two areas of collaboration with the WVBE, namely in providing professional development services to schools chosen as demonstration professional development project schools (**HB4669** – 2004 session) and in providing professional development in any specific subject matter area in which the WVBE and/or the Legislature determines that an initiative in that area is justified due to a need to increase student achievement in that specific area.
- The Center Board is required to conduct a professional development study, reporting findings to the Legislative Oversight Commission on Education Accountability by Jan. 1, 2006.

- The study must include the extent to which the collaboration between the teacher preparation institutions and the RESAs should include follow-up professional development. A second area is to determine the items that the WVBE should consider in establishing the professional development goals (and priority for each). A third area relates changes that intended to enhance the effectiveness of Principal Academy training.

#### **Principals Academy**

- Includes findings that the existing Principals Academy has been effective, but that creation of a new position – coordinator of

the principals' academy – would further enhance quality of training principals receive. The Center Board would employ this individual.

- The coordinator, subject to Center Board oversight, is responsible for coordinating the Principals' Academy.

There are other several other provisions. Also refer to “Administrative Perspective” in the March 21 issue of *The Legislature*.

The bill is sponsored by Senate President Earl Ray Tomblin, D-Logan, and Minority Leader Sprouse. The measure originated in House Education on March 22.

## Student loan forgiveness program proposed

**Senate Bill 719.** The purpose of this legislation is to establish a “Student Loan Forgiveness Program” for qualified residents who graduate from higher education institutions and who apply their degrees in agriculture to family farms, practice of veterinary medicine or teaching an agricultural curriculum within the state.

Persons qualify for the loan if beginning the first year of full-time employment or work on a family farm, full-time teaching or practice of veterinary medicine. They also must have borrowed moneys through a student loan program, and no more than \$2,000 is to be forgiven in any year – up to \$10,000.

Program funding is contingent on the “extent” of moneys provided by the Legislature.

Sponsored by Sen. Unger. Introduced March 21. Referred to the Senate Education Committee, then Senate Finance Committee.

(Also refer to **SB233/HB3076** which are similar bills, making the PROMISE loan program a forgivable loan program.)

## Abortion: campus workers would be unable to assist

**House Bill 3123.** Proposed §18B-7-13 would prohibit higher education employees from assisting students in securing abortions.

There are other bills on this subject.

Sponsored by Del. Thomas Porter, R-Mercer. Introduced March 22. Referred to the House Judiciary Committee.

## Bundled textbook packages would be disallowed

**House Bill 3163.** Revised §18B-10-14 would prohibit colleges from requiring students to purchase bundled textbook packages.

It also would prohibit faculty from receiving benefits for requiring use of specific textbooks, and would require colleges to post detailed listings of all required textbooks that are to be used at the institution.

There are five House sponsors, including lead sponsor Del. Tom Campbell, D-Greenbrier. Introduced March 23. Referred to the House Education Committee.

## Bill relates to ‘Educational Opportunities’ program

**House Bill 3243.** Revised §18-19-1 would include children of deceased members of the US Armed Forces or members of the Reserve components called to active duty in the Educational Opportunities Appropriation.

It also removes the requirement that these persons attend a state education or training institution.

Editor’s Note: For the Senate version of this bill, refer to Feb. 14 issue of *The Legislature*.

Sponsored by Del. Morgan. Introduced March 25. Referred to the House Education Committee, then House Finance Committee.

## Bill would support rifle team

**House Bill 3303.** Revised §18B-10-1 would allow the West Virginia University student body to vote to support the rifle team.

This is one of two bills on this subject.

There are five House sponsors, including lead sponsor Del. Cindy Frich, R-Monongalia. Introduced March 25. Referred to the House Education Committee, then House Finance Committee.

Also refer to **HB3101**, which is reviewed in the March 21 issue of *The Legislature*.

## Bill seeks to ‘protect academic freedom’

**House Bill 3330.** Proposed §18B-7-13 would establish a section of Code relating to higher education – “Personnel Generally.”

Under terms of this bill, state institutions of higher education would be required to “observe the following principles and procedures,” eight of which are named.

These are among the principles:

1. Employees are to be “hired, fired, promoted and granted tenure” based on their “competence and appropriate knowledge in the field of their expertise.” In the humanities, social sciences and arts, employees are to utilize a “view toward fostering a plurality of methodologies and perspectives.” Accordingly, faculty couldn’t be dismissed based on his or her “political or religious beliefs.”
2. Tenure, search and hiring committee deliberations are to be recorded and made available to persons who may “inquire into the integrity of the process.” (Certain information can be redacted.)
3. Students are to be graded solely on basis of their “reasoned answers and appropriate knowledge of the subjects and disciplines they study.” Students aren’t to be graded on the basis of their “political or religious beliefs.”
4. Humanities curricula and social sciences must “respect the uncertainty and unsettled character of all human knowledge in these areas and provide students with dissenting sources and

viewpoints.” Teachers are to make students aware of “other viewpoints” which they may not share. Additionally, “academic disciplines must welcome a diversity of approaches to unsettled questions.”

5. Faculty would be prohibited from using “their courses for the purpose of political, ideological, religious or anti-religious indoctrination.”
6. Intellectual pluralism is to be observed in the selection of speakers, allocation of funds for speakers’ programs and student activities.
7. “The obstruction of invited campus speakers, destruction of campus literature or other effort to obstruct the civil exchange of ideas may not be tolerated.”
8. Academic institutions are to maintain a “posture of organizational neutrality with respect to the substantive disagreements that divide researchers on questions within, or outside, their fields of inquiry.”

There are seven House sponsors, including lead sponsor Del. Overington. Introduced March 25. Referred to the House Education Committee, then House Judiciary Committee.

## Bill would create ‘Byrd Scholarship Program’

**House Bill 3351.** Proposed §18C-8-1 would create the West Virginia Byrd Scholarship Program, named after Democrat U.S. Sen. Robert C. Byrd.

The primary purpose of the proposed legislation is to “preserve” the federal Robert C. Byrd Honors Scholarship Program, which the Legislature, through passage of this legislation, would “endorse the purpose of the federal (scholarship program) and to preserve the...program in such years that federal funding is not appropriated to the state for the (Scholarships)...”

The Vice Chancellor for Administration is to administer the program, and award recipients are to be chosen in an equitable geographic manner.

The Higher Education Policy Commission, in administering the program, is to select applicants based on several criteria, including grade point average and American College Test or Scholastic Aptitude Test (ACT/SAT, respectively) scores.”

Other factors include graduation from a state high school; admission to a regionally or nationally accredited college/university; or, other criteria determined by the HEPC.

The initial Scholarship award is \$1,500.

Rewards are renewable for up to three “academic years beyond the initial award, and may be used for undergraduate or graduate course-work.”

Awards are in addition to other financial aid, and cannot be included as part of any needs test in connection with the awarding of other financial aid.

There are several other provisions.

There are 11 House sponsors, including lead sponsor Speaker Kiss. Introduced March 25. Referred to the House Education Committee, then House Finance Committee.

## Juveniles

### Impregnating male’s age would be cited for abortion

**House Bill 3142.** Proposed §16-2F-6 would require persons authorized to perform abortions to report to the state Division of Health whether the male who impregnated the minor female receiving the abortion was 18 years or older at the time of the impregnation.

Sponsored by Dels. Eldridge and Roger Romine, R-Tyler. Introduced March 22. Referred to the House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### Fines would be upped for vandalism, property destruction

**House Bill 3207.** Revised §55-7A-2 and §61-3-30 would increase various fines and penalties for juveniles’ destruction of property and vandalism.

The bill removes the limitation on the amount of parental liability for vandalism which is currently \$5,000 or less.

Other fines are increased, with vandalism fines being set at \$200-\$500 upon conviction. The current fine is up to \$500. Jail time would be increased as well from 30 days to one year. The current jail time is “not more than one year.”

There are three House sponsors, including Del. Canterbury (by request). Introduced March 24. Referred to House Judiciary.

For similar bills, refer to the Feb. 14 and Feb. 21 issues of this publication.

### Fights ‘on school grounds’ would require suspension

**House Bill 3242.** Proposed §61-1-24 would require juveniles who are convicted of assault or battery “while on school grounds” to be suspended from school for up to 10 days.

The juvenile also would have to perform 20 hours’ community service.

For a second offense, the juvenile would be suspended for up to 10 days and would have to pay court costs—plus a \$25 fine.

For a third offense (or subsequent) offense, the juvenile would be suspended for 10 days and would “(be) ordered to (be) placed in an alternative school as a violent student.” In addition, the juvenile would be fined \$50 and ordered to pay court costs.

There are six House sponsors, including lead sponsor Del. Linda Sumner, R-Raleigh. Introduced March 25. Referred to the House Education Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

## Public Policy

### Cloning would face ban

**House Bill 3144.** Revised §61-10-32 would prohibit cloning of human beings in West Virginia.

Sponsored by Del. Otis Leggett, R-Ritchie (by request). Introduced March 22. Referred to the House Judiciary Committee.

Editor's Note: Most of the introduced bills refer to a ban on cloning at state institutions of higher education,

### English would be official tongue

**House Bill 3254.** Proposed §2-2-13 would designate English as the official language of West Virginia.

Also refer to **SB12** in Feb. 14 issue of *The Legislature*.

Sponsored by Del. Louisos. Introduced March 25. Referred to House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### Only heterosexuals could adopt

**House Bill 3352.** Revised §48-22-201 would modify the statutory qualifications of persons who may adopt children so that only a "heterosexual person" may adopt children.

A second bill proviso says, "No person eligible to adopt... may adopt if that person is a homosexual."

There are five House sponsors, including lead sponsor Del. William F. Stemple, D-Calhoun. Introduced March 25. Referred to the House Judiciary Committee.

### Teachers Retirement System

#### Rule of 80 retirement proposed

**House Bill 3127.** This legislation would allow a TRS member to retire with full benefits when years of service and age equal '80.'

Sponsored by Del. Richard Browning, D-Wyoming. Introduced March 22. Referred to the House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

#### Teachers could return to TRS

**House Bill 3154.** Revised §18-7A-36 would require a study of the option for teachers who withdrew from the TRS in favor of the Defined Contribution Retirement System (DCRS) to exercise the option to return to the TRS.

Sponsored by Del. Louisos. Introduced March 23. Referred to the House Pensions and Retirement Committee, then House Finance Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### Members could buy back active duty 'time'

**House Bill 3209.** Revised §18-7A-17 would allow those TRS mem-

bers who have been called to active duty since Sept. 11, 2001, to repurchase the time by making payments (over a five-year period).

The bill applies to those who served in Afghanistan and Iraq.

There are five House sponsors, including lead sponsor Del. Brent Boggs, D-Braxton. Introduced March 24. Referred to the House Pensions and Retirement Committee, then House Finance.

## DCRS

### Legislative rules would be proposed regarding vesting

**House Bill 3157.** This bill would direct the Consolidated Public Retirement Board to propose legislative rules.

It also would provide that upon termination of employment, regardless of whether the member has taken a retirement distribution of all or a portion of his or her vested account, the remaining balance, if any, in the employer's account that isn't vested is to be remitted and paid into a suspension account.

That account would be operated in accord with legislative rules that the Defined Contribution Retirement System is to promulgate.

Lastly, the bill provides for retroactive employer contributions to the DCRS where a member serves in the Legislature.

Sponsored by Del. Doug Stalnaker, D-Lewis. Introduced March 23. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

## Consolidated Public Retirement Board

### Bill allows delinquency fees

**House Bill 3160.** Revised §5-10D-1 would authorize the Consolidated Public Retirement Board to charge delinquency fees approximating lost interest or earnings from employers that participate in a state retirement system.

The fees are applicable when the employer fails to pay the CPRB its retirement collections in a timely manner.

Sponsored by Del. Michael, and two other delegates. Introduced March 23. Referred to House Pensions and Retirement Committee, then House Finance Committee.

## PERS

### PERS credit could be granted for 'other public service'

**House Bill 3139.** The purpose of this legislation is to allow service credit under the Public Employees Retirement System for up to five years for other public service.

Sponsored by Speaker Kiss (by request). Introduced March 22. Referred to House Pensions and Retirement Committee. *Similar legislative proposals have been introduced/considered in past legislative sessions.*

# Jobs for WV Graduates would be able to quit PERS

**House Bill 3156.** This legislation would provide for the withdrawal of Jobs for West Virginia Graduates from the Public Employees Retirement System. The bill provides a window that members may use to re-purchase time, and the bill would create a window for Emergency Medical Service staff to purchase time from 1990 to 1995.

Sponsored by Del. Harry Keith White, D-Mingo. Introduced March 23. Referred to the House Pensions and Retirement Committee, then House Finance.

## Consumers Sales Tax

### Added exemptions proposed

**Senate Bill 644.** This legislation, if enacted, would make a technical change in the state's consumers sales tax exemption law — §11-15-2 — so that “transmission” and “transportation,” as applied to the oil and gas industry, couldn't be construed to allow consumers sales tax to be applied if the energy “transmission” and “transportation” occurred among between company sites and not for others, including consumers.

The House companion bill is **HB3229**.

The Senate measure is sponsored by Sens. Edwin J. Bowman, D-Hancock, and Helmick. Introduced March 21. Referred to the Senate Finance Committee.

Dels. Michael and Kominar sponsored the House measure. It was introduced March 25, and referred to House Finance.

#### Medical Goods

**SB655** would clarify the sales tax exemption law so that drugs, durable medical goods, mobility enhancing equipment, prosthetic devices and insulin doesn't apply to purchases by health care providers for use in providing professional or personal services.

There are four Senate sponsors, including lead sponsor Sen. William R. Sharpe Jr., D-Lewis. Introduced March 21. Referred to the Senate Finance Committee.

The House companion, **HB3237**, was introduced March 25, has three House sponsors, including lead sponsor Del. Kominar. It was referred to the House Finance Committee.

#### Racetrack Wagers

This is the same as **HB2930** which was reviewed in the March 14 edition of *The Legislature*. It would apply consumers' sales tax on wagers or plays by racetrack video lottery players.

The original bill was sponsored by Del. Lane.

**HB3148** has 11 House sponsors. Introduced March 22. Referred to the House Finance Committee.

Editor's Note: These bills are reviewed because of their potential impact on state General Revenue and because legislators, when considering such measures, are notorious for adding additional exemptions. *Similar proposals have been introduced in the past.*

#### Homestead Exemption

**Senate Bill 641** would make a change in the state's Homestead Exemption law so that the term “used and occupied by the owner...exclusively for residential purposes” means actual “habitation by the owner of all or a portion of a parcel of real property as a place of abode to the exclusion of (commercial use)...”

If the property were “unoccupied” at the time of tax assess-

ment, but a “building improvement for residential purposes was subsequently constructed...between that date and (assessment), the property (will meet the definition of ‘used and occupied by the owner...exclusively for residential purpose).”

In terms of the state's homestead exemption, the term “used exclusively for residential purposes” would apply in those cases where, as a result of illness, accident, or infirmity, the owner is residing with a family member or is a nursing home resident, or in a personal care home, rehabilitation center, etc.

Sens. Helmick and Plymale sponsored the bill, which was introduced March 21 and referred to the Senate Finance Committee.

The House companion measure is **HB3256**. It has five House sponsors, including lead sponsor Del. Michael. Introduced March 25. Referred to the House Judiciary Committee, then House Finance.

#### Related Resolutions

**Senate Joint Resolution 13** would increase the Homestead Exemption from \$20,000 to \$35,000, allowing the Legislature to adjust the exemption every 10 years to reflect increases in inflation.

Sponsored by Sen. Sprouse (by request). Introduced March 21. Referred to the Senate Finance Committee.

**House Joint Resolution 19** would raise the homestead exemption from \$20,000 to \$40,000. It also has the provision which allows the Legislature to adjust the exemption every 10 years.

It is sponsored by Dels. Armstead and Lane. Introduced March 25. Referred to the House Constitutional Revision Committee, then House Finance Committee.

Editor's Note: These resolutions, in order to become effective, must be approved both by the Legislature and then as constitutional amendments approved by voters. *Similar legislative proposals have been introduced/considered in past sessions.*

## Personal Income Tax

### Dependent credit proposed

**Senate Bill 651.** Revised §11-21-21a would provide a \$50 tax credit for each dependent child if the taxpayer has an adjusted federal income tax of \$100,000 or less.

Sponsored by Sen. Steve Harrison, R-Kanawha. Introduced March 21. Referred to the Senate Finance Committee. *Similar legislative proposals have been introduced in past sessions.*

### Educational credits proposed

**House Bill 3335.** Revised §11-21-8 would create an “Educational Expenses for School Age Children” tax exemption.

The credit couldn't exceed \$1,000 (or 50 percent of the total amount the parent spends for educational purposes).

These are among items for which the credit would apply:

- Funds expended for tutoring;
- Lease of a home computer used primarily by the student;
- Uniforms the student may be required to wear in “public or private schools”;
- Textbooks; and,
- Direct monetary contribution's to a child's school.

There are three House sponsors, including lead sponsor Del. Armstead. Introduced March 25. Referred to House Finance Committee. *Similar proposals have been introduced in past sessions.*

# MISCELLANEOUS

## *Unemployment Compensation*

### Bill to clarify when benefits apply for resignation

**Senate Bill 631.** Revised §21A-6-3 would clarify existing law so that an individual who provides notice of future voluntary resignation, but who is required to leave his or her employment prior to the announced resignation date, is qualified for Unemployment Compensation benefits from the time the notice was given to his or her employer until the end of the notice period, or 30 days, whichever is less.

Sponsored by Sen. Donald T. Caruth, R-Mercer. Introduced March 21. Referred to the Senate Judiciary Committee, then Senate Finance Committee.

## *Workers Compensation*

### Two bills relate to ‘intentional injury’ definition

**Senate Bill 625.** This proposed legislation would change the requirements for an employee to sustain a lawsuit for intentional injury to require the employer’s actual knowledge of an “unsafe working condition.”

It also would require an intentional and overt act on behalf of the employer, as well as negligence or fault on the part of the employer.

Additionally, plaintiffs would have to prove their cases by “clear and convincing evidence.”

There are other provisions. Sponsored by Sen. McCabe. Introduced March 21. Referred to the Senate Judiciary Committee.

**HB3143** is the House companion measure. It is sponsored by Speaker Kiss. Introduced March 22. Referred to the House Judiciary Committee.

Two additional bills address this issue. They also would establish the “Asbestos and Silica Compensation Fairness Act of 2005.”

The measures, far more comprehensive in scope, are **SB706** and **HB3260**. The former is sponsored by Sen. McCabe. Introduced March 21. Referred to the Senate Judiciary Committee, then Senate Finance Committee.

The House bill was sponsored by Speaker Kiss. Introduced March 25. Referred to the House Judiciary Committee.

## *PEIA*

### Contraceptives would be part of insurance benefit plans

**House Bill 3138.** The purpose of this legislation is to require all health insurance plans to cover the cost of contraceptives.

There are 11 House sponsors, including lead sponsor Del.

Amores. Introduced March 22. Referred to the House Banking and Insurance Committee, then House Judiciary Committee.

Editor’s Note: House Judiciary has considered this type legislation. *Similar legislative proposals have been introduced/considered in past legislative sessions.*

### Employers’ PEIA retirees’ share may be subsidized

**House Bill 3161.** The purpose of this legislation is to provide for a potential subsidy of the employer Public Employees Insurance Act share for small governmental entities.

The bill specifically excludes county boards.

There are other provisions.

Sponsored by Speaker Kiss (by request). Introduced March 23. Referred to the House Pensions and Retirement Committee, then House Finance Committee.

## *Resolutions*

### \$250 million bond proposed for flood mitigation in state

**Senate Joint Resolution 14.** If ultimately adopted by voters, this proposal would authorize the Legislature to issue and sell bonds in an amount not to exceed \$250 million for flood mitigation purposes.

Part of the coal severance tax is dedicated to help retire the bonds.

Sponsored by Sen. Sprouse. Introduced March 21. Referred to the Senate Judiciary Committee, then Senate Finance Committee.

### Legislature would appropriate budget items

**House Joint Resolution 15** ostensibly relates to the judicial branch of governments’ budget which the Legislature, due to a state Supreme Court case several years ago, doesn’t alter.

Accordingly, the Resolution would propose a constitutional amendment which restores the Legislature’s power to appropriate each line-item in the state budget.

There are 11 House sponsors, including lead sponsor Speaker Kiss. Introduced March 22. Referred to the House Constitutional Revision Committee, then House Judiciary Committee. *Similar proposals have been introduced/considered in past legislative sessions.*

### Single member legislative districts proposed

**House Joint Resolution 18.** If ultimately adopted by voters, this constitutional amendment would establish 100 single member House of Delegates Districts, and 34 single state Senate electoral districts.

There are 11 House sponsors, including lead sponsor Del. Overington. Introduced March 25. Referred to the House Constitutional Revision Committee, then House Judiciary Committee. *Simi-*

lar proposals have been introduced in past legislative sessions.

## ‘Taxpayer Bill of Rights’ proposed; limits state revenue

**House Joint Resolution 20.** Simply stated, this proposed resolution, if ultimately adopted by voters, would restrict the growth of government by limiting the amount of revenues which could be raised as well as restricting expenditures.

It would take effect in 2007.

It would apply to state and local governments. For county boards “local growth” would mean the percentage change in net enrollment, meaning revenue collected from property taxes would complement or correspond to enrollment increases or decreases.

Voters would be given choices regarding fiscal proposals, with both “pros” and “cons” listed (up to 500 for each). They would have to approve tax increases.

In terms of emergencies, each local government is required to reserve up to 3 percent of its spending for this purpose.

Emergency taxes could be imposed if district governments vote on them by individual vote of each member of the district board.

New or increased real estate taxes would be prohibited.

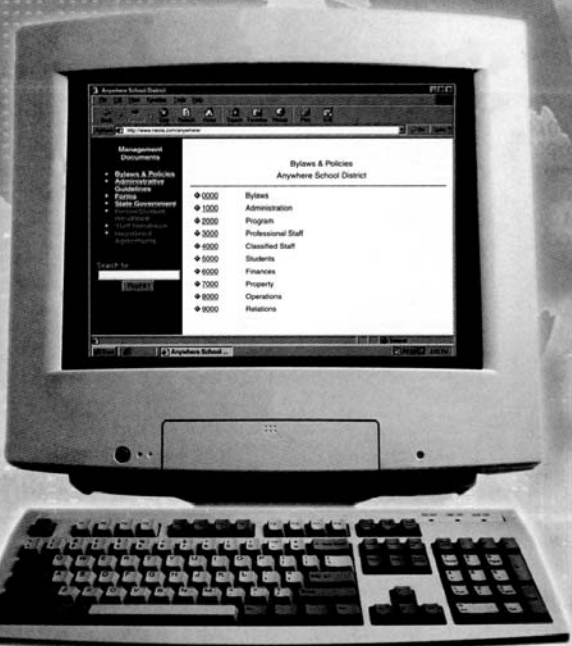
There are several other provisions.

There are 10 House sponsors, including lead sponsor Del. Overington. Introduced March 25. Referred to the House Constitutional Revision Committee, then House Judiciary Committee.

## BRIEFLY

**Senate Bill 615** would provide an exception to the day care facility licensure act for summer academic enrichment and cultural arts development camps...**SB616** relates to reciprocity of “other jurisdictions (of government) that afford the same privileges to West Virginia legislators...”**SB707** would establish the “Rural West Virginia Agricultural and Resource-Based Industry Development Act...”**SB28** would allow cannibalization of state commodities under certain circumstances...**SB740** would require an inventory of technology infrastructure in the state. There are numerous provisions in the 30-page bill...**House Bill 3140** would make it a misdemeanor for failing to appear in municipal court...**HB3188** would prohibit use of a handheld cellular telephone when one is driving...**HB3198** essentially repeals the Budget Digest...**HB3216** items matters relating to legislative immunity...**HB3231** would establish a Road or Highway Infrastructure Improvement Projects or Coal Production and Processing Facilities Tax Credit. Its purpose is to encourage private companies to make infrastructure improvements to highways, roads and bridges, among other itemized bill purposes...**HB3273** would restrict or prohibit the use of tobacco products within a local board of health service area upon adoption of a resolution of the governing body of a county or municipal corporation that would be affected by a smoking ban...**HB3308** would delete the existing Code provision that allowed private clubs to be segregated on basis of race or color.

ARE YOUR **Board Policies AND Administrative Guidelines** ON-LINE?



The image shows a computer monitor displaying a web application. The browser window title is 'Anywhere School District'. The page content is titled 'Systems & Policies' and 'Anywhere School District'. On the left, there is a 'Management Documents' sidebar with a tree view containing categories like 'Systems & Policies', 'Administrative', 'Forms', 'State Government', 'Professional Staff', 'Classified Staff', 'Students', 'Finances', 'Property', 'Operations', and 'Relations'. The main content area lists these same categories with expandable icons (circles with arrows) next to them. A search bar is visible at the bottom left of the page content.

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*WVSBA's*  
**LEADERSHIP MEETING**

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May 20/21  
Lakeview Resort  
& Conference Center  
Morgantown, W.Va.

*Friday - Legislative Wrap-Up*  
Howard E. Seufer Jr., Esq.  
Bowles Rice McDavid Graff & Love

*Saturday - Secondary School Scheduling;  
Monitoring and Oversight: "How Do We Really  
Know What's Going On?"*

For more information, please contact  
Conference Registrar Shirley Davidson  
at (304) 346-0571 or sdavidson@wvsba.org

**BILL INDEX**

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to bus operators, although existing laws address these school personnel; **HB2528/SB720** – Relates to alternative teacher certification plans; **HB3251** – Persons in bankruptcy would be required to notify Bankruptcy Judge of changes in employment.

School Employee Salary Proposals..... 5  
**SB606** – West Virginia Education Association pay proposal; **HB3241** – Provides pay increase based on cost of residential housing in area where teacher resides; **HB3290** – Provides teachers a \$5,000 salary increase if teaching in various shortage fields; **HB3131** – School service personnel bill relating to mechanics; **HB3133** – Establishes Class Title for “Administrative Assistant” and “Legal Secretary” (Pay Grade ‘H’); **HB3147** - \$100 per month pay increase for service personnel; **HB3240** – omnibus pay proposal.

School Aid Formula..... 6  
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**HB3129** – Contractors wouldn’t have to pay municipal B& O Taxes; **HB3162** – Building projects would have to meet certain time restrictions; **HB3267** – Prevailing Wage Rate wouldn’t apply to school construction.

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**SB647** – Failing drivers written test more than twice would cost \$5 per additional tries; **HB3238** – Immunization exception.

West Virginia Board of Education..... 7  
**SB632** – Vender preference supplied to vendors demonstrating health insurance coverage for employees; **SB633** – “Managing for Results” measure introduced; **HB3239** – Concerns state superintendent qualifications; **HB3264** – Bill freezes agency employee numbers as number of employees employed on Jan. 1; **HB3318** – Jobs Impact Statement would be required.

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Child Abuse..... 8  
**SB618/HB3252** – Crime established for falsely reporting child abuse; **HB3173** – Penalties for child abuse increased; **HB3206** – Child Protective Service workers would receive 15 percent pay increase.

Child Safety..... 8  
**HB3326** – ATV exception would be removed; children under age 18 couldn’t ride All-Terrain Vehicles.

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Child Support.....	8	ers called to military service since Sept. 11, 2001 could “repurchase” TRS time by making payments over a five-year period.
<b>SB656/HB3184/HB3185/HB3340</b> – All relate to child support and proposed statutory revisions, including proposal that would include education-related child care expenses in statutory formula for child care.		
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<b>SB605/SB621/SB715/HB3331</b> – All relate to methamphetamine production; <b>HB3137/HB3212</b> – Felony established for harassing a law enforcement informant; <b>HB3179</b> – Relates to careless driving; <b>HB3214/HB3336/HB3341</b> – all relate to sex offenders; <b>HB3246</b> – Presence of spyware software would have to be revealed; <b>HB3282</b> – “Up-skirting” crime created; <b>HB3284</b> – Persons accused of battery would be tested for infectious disease.		<b>HB3157</b> – Relates to legislative rules, including termination of employment.
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<b>SB638/HB3249</b> – Relates to tardy campaign reports; <b>SB642</b> – Relates to technical clean-up in section of law relating to counting of votes; canvassing; <b>SB622</b> – Campaign records to be kept for two years; <b>SB663</b> – Trained (paid) election volunteers would be permitted to observe election counts; <b>SB711</b> – Party registration deadline clarified; <b>HB3122</b> – Persons buying hunting/fishing licenses would be given voters registration card; <b>HB3281</b> – Tampering with election devices would be crime.		<b>HB3160</b> – Bill relates to employer delinquency.
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<b>HB3142</b> – Impregnating male’s age to be noted if abortion procedure done; <b>HB3207</b> – Fines upped for vandalism, property destruction; <b>HB3242</b> – School fights would be prohibited; fines; alternative education.		<b>SB644/HB3229</b> – Terms clarified relating to oil and gas industry; <b>SB655/HB3237</b> – Terms clarified relating to medical goods used by professional or personal services firms; <b>HB3148</b> – Would tax Video lottery earnings.
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		<b>MISCELLANEOUS</b>
		Unemployment Compensation.....
		<b>SB631</b> – Bill would clarify when benefits apply in case of prospective resignations.
		Workers Compensation.....
		<b>SB625/HB3143/SB706/HB3260</b> – Concern “intentional injury” definition;
		PEIA.....
		<b>HB3138</b> – Contraceptives would be covered by insurance plans; <b>HB3161</b> – Employers’ PEIA retirees’ share may be subsidized; doesn’t apply to county boards.
		Resolutions.....
		<b>SJR14</b> – Relates to flood mitigation; <b>HJR15</b> – Ostensibly concerns judicial budget; Legislature would determine all budget line-items; <b>HJR18</b> – 134 single legislative districts proposed; <b>HJR 20</b> – “Taxpayer Bill of Rights.”
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## WEEK SEVEN BILLS REVIEWED

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HB3114	HB3148	HB3207	HB3249	HB3331	<i>Resolutions</i>
HB3122	HB3152	HB3209	HB3251	HB3334	
HB3123	HB3154	HB3210	HB3252	HB3335	HJR15
HB3124	HB3156	HB3212	HB3254	HB3336	HJR18
HB3127	HB3157	HB3213	HB3256	HB3340	HJR19
HB3129	HB3160	HB3214	HB3260	HB3341	HJR20
HB3130	HB3161	HB3227	HB3264	HB3349	
HB3131	HB3162	HB3229	HB3267	HB3350	
HB3132	HB3163	HB3237	HB3275	HB3351	
HB3133	HB3172	HB3238	HB3281	HB3352	
HB3137	HB3173	HB3239	HB3282		
HB3138	HB3179	HB3240	HB3284		
HB3139	HB3184	HB3241	HB3290		For greater bill details, visit the West Virginia Legislature's Web site at <a href="http://www.legis.state.wv.us">www.legis.state.wv.us</a>
HB3142	HB3185	HB3242	HB3303		
HB3143	HB3189	HB3243	HB3318		
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SB603	SB645
SB605	SB647
SB606	SB651
SB610	SB655
SB611	SB656
SB618	SB663
SB621	SB706
SB622	SB711
SB625	SB715
SB631	SB719
SB632	SB720
SB633	SB742
SB635	
SB638	<i>Joint</i>
SB641	<i>Resolutions</i>
SB642	SJR13
SB644	SJR14

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## The Legislature

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