



# WRAP-UP

The Newsletter of the West Virginia Legislature

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## State Lawmakers to Tackle Budget Concerns

by: Jessica Stanton

As the regular session gains momentum, state legislators are engaged in a brimming legislative agenda – one that will likely entail many substantial issues, including the considerable fiscal challenges tied to the budget. West Virginia is projected to have a \$120 million shortfall in a budget of \$3.2 billion, making this one of the most challenging budgets in recent years.

West Virginia is not alone in this plight. Although the national economy seems to be on an upswing, many states are still operating on tight budgets and exploring options to secure monetary stability for the future.

To fill West Virginia's financial void, Governor Wise, during his final State of the State Address, proposed a balanced budget with revenue enhancements and budget cuts for state agencies. Most branches were asked to reduce spending by 9 percent, while higher education's budget was asked to cut 2.5 percent. The State Police, prisons, senior citizens, children's healthcare, public schools and scholarships were excluded from these spending reductions in the Address.

According to the State Constitution, West Virginia is required to have a balanced budget. As such, lawmakers may adopt the Governor's tax suggestions, choose to increase revenues, or decline the Governor's proposals. Unlike the federal government, West Virginia cannot run on a deficit.

Although this task is demanding, balancing the state's budget is imperative to secure and maintain adequate educational programs, increase the availability of healthcare and implement economic development initiatives to attract businesses to West Virginia.

The Legislature is currently working on various legislation to bring revenue to the state and enhance the economy. These initiatives include expanding tourism development, establishing a statewide trail coordinator, providing a tax credit to small businesses and creating a tax credit to foster the development of businesses started by West Virginians.

In addition to the budget, many other important issues are on lawmakers' legislative agendas. During the first week of session, the Senate considered and passed a bill allowing for the drunken driving threshold to be lowered from 0.10 blood alcohol content to 0.08. Presently the House is working on its version.



Senate President Earl Ray Tomblin and Speaker of the House Bob Kiss share the podium as the governor delivers his State of the State Address, marking the beginning of the 2004 Legislative Session. *photo: Martin Valent*

Until a bill goes into effect, West Virginia remains one of only five states that has not made this change since Congress established 0.08 as the national standard in 2000. For states to maintain federal highway funding, Congress required all states to conform to this standard by 2004. With the passage of a bill, West Virginia could regain the \$2.62 million in highway funds lost last year.

Another focus issue on lawmakers' calendar is All-Terrain Vehicle (ATV) safety, which has fallen short of legislative approval in past years. This is being addressed through various pieces of legislation currently under consideration. The different versions contain provisions relating solely to younger operators and other basic safety measures relating to any individual driving an ATV.

Other issues under close review include tort reform, insurance fraud, prescription drug costs, clean elections, water resource management and gambling advertisements.

Comparable to the 2003 session, this year has started off on a rapid pace – with the House introducing more than 600 carryover bills from last year, making the total number of bills being considered by this chamber over 700. While the Senate does not allow bills to carry over from year to year, currently more than 250 bills are being reviewed in committee.

Please feel free to follow these measures throughout the legislative process by visiting the Bill Status portion of the West Virginia Legislature's website: [www.legis.state.wv.us](http://www.legis.state.wv.us)



# In the Senate

As of 4:00 PM, Wednesday, January 21, 2004, the 8th day of the 2004 Regular Legislative Session, 254 bills have been introduced in the Senate. Of those, three measures were passed and will go on to the House for its consideration.

**Senate Bill 166** would reduce the allowable blood alcohol content (BAC) for driving under the influence (DUI) from 0.10 to 0.08 of one percent of body weight. Federal highway funding to the tune of around \$10 million has been tied to the passage of this legislation.

**Senate Bill 190** relates to the filing fee for certain United States candidates. The measure places a cap on the dollar amount set for the filing fee in West Virginia for United States presidential candidates to \$2,500. Current law places a one percent fee for all offices, state or federal. This bill would place West Virginia into compliance with federal filing laws.

**Senate Bill 196** would allow instructional activities for students, faculty senate meetings and other professional activities

for teachers, all of which are required on instructional support and enhancement days, to occur in any order.

## Sampling of bills introduced this week:

### All-Terrain Vehicle Regulation

**Senate Bill 215** would require that persons, under the age of 18, who operate ATVs wear helmets and prohibit passengers under the age of 18. The bill would also provide that cities and counties may regulate or prohibit the operation of ATVs within their respective jurisdictions and would provide an exemption for farm and commercial use.

**Senate Bill 252** would create the Child Safety All-Terrain Vehicle Act. This bill would establish safety and training provisions for children riding or operating ATVs in West Virginia.

**Senate Bill 253** would establish ATV safety measures for any person operating or riding ATVs and place limitations on ATV use. The bill would also grant counties limited authority to regulate ATV use.

### Corporations and Business Entities

**Senate Bill 210** would repeal the annual corporate license fee and replace it with an annual report and annual registration fee of \$50 to be paid by corporations, non-profits, limited partnerships, voluntary associations, and business trusts. The bill also would preserve the attorney-in-fact fee.

**Senate Bill 233** would require the Alcohol Beverage Control Commission (ABCA) to hold a public hearing prior to issuing a first-time license for private clubs or upon the transfer of a license to a private club at a new location. The bill would mandate a public hearing be held in the county where the club is to be located.

### Education

**Senate Bill 15** would remove the requirement that substitute teachers work a certain amount of days for seniority applied to full-time employment. The bill, more specifically, would remove the requirement that substitute teachers work at least 133 days in a school year to count their substitute teaching toward seniority for full-time employment hiring purposes.

### Estates and Trusts

**Senate Bill 171** would eliminate the requirement that an estate representative be in court to be named administrator of an estate.

### Gaming Activities

**Senate Bill 162** would prohibit businesses authorized to offer limited video lottery games from displaying gambling names and gambling symbols in the establishment's advertisements, signage and/or directions.

### Health

**Senate Bill 251** would establish the Nurse Overtime and Patient Safety Act. The bill would generally prohibit mandatory overtime for nurses in certain health care facilities. The bill states that a hospital would be prohibited from mandating a nurse, directly or through coercion, to accept an assignment of overtime and/or take action against a nurse solely on those grounds.

### Insurance

**Senate Bill 161** would create the West Virginia Health Insurance Plan. This measure would look to provide health insurance coverage to qualified persons who are otherwise unable to obtain coverage. The coverage issued by the plan, its schedule of benefits, exclusions and other limitations would be established by a board created by the bill and subject to the approval of the Insurance Commissioner.

### Motor Vehicles

**Senate Bill 235** would allow motor vehicles to treat red lights as stop signs in certain cases. The measure would permit a driver of a motor vehicle to treat a red light as a stop sign between the hours of 12:00 a.m. and 6:00 a.m. if there are no pedestrians or other traffic present or within close proximity. Any political subdivision in the state would be able to pass an ordinance prohibiting motorists from the provisions of this legislation.

### Retirement

**Senate Bill 175** relates to benefits for members of the Police Retirement System for service-related disability or death. The bill would increase the death benefits eliminate the requirement for disabled

#### The West Virginia Legislature's Reference and Information Center

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# In the House

As of 4:00 pm, Wednesday, January 21, 2004, the eighth day of the 2004 Regular Legislative Session, 723 bills have been introduced in the House of Delegates, including 624 carry-over bills. Carry-over bills and resolutions are proposals that did not pass or were pending upon the adjournment of the first regular session within a respective two-year Legislature. These proposals must be requested by their original sponsors and retains their original language.

Five bills have been passed by the House and will now go to the Senate for its consideration. These are:

**Committee Substitute for House Bill 2268** would designate teachers and substitute teachers as professional educators and address critical needs and shortages. This bill would reactivate provisions which previously authorized County School Boards to employ retired teachers in areas of critical need and shortage. However, the policy must limit the employment of retired teachers when no other teacher who holds certification and training in the area of need is available.

**House Bill 3052** relates to including Family Courts into certain jurisdictional references of the Clerk of the Circuit Court by changing the official title of the Clerk of the Circuit Court to Clerk of the Courts. The bill would also require that the Administrative Director of the Supreme Court of Appeals keep a full and complete account of all money transactions in connection with the various county law libraries and of the receipt of all books and other documents lodged in the libraries.

**House Bill 4039** relates to the posting of positions for the employment of persons other than professional educators as coaches. This bill would remove the prior requirement

that the posting of coaching positions be posted after the employment of persons other than professional educators have been hired in a coaching position and remained there for at least three consecutive years.

**House Bill 4040** relates to the criteria for filling vacancies in the case that more than one person who is permanently employed seek the same posted position. The criteria would be an overall rating of satisfactory on the previous two evaluations, rather than over the previous two years.

**House Bill 4045** would require the submission of evidence to the State Superintendent that the County Superintendent has provided the required bond and good security. The bill would also require that each County Superintendent hold a professional administrative certificate endorsed for superintendent, or a first class permit endorsed for superintendent.

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## Sampling of bills introduced this week:

### *Banks and Banking*

**House Bill 4052** would increase the number of persons to whom credit union services would be extended. Credit union membership would be limited to persons within one or more groups having a common bond or bonds of similar occupation, employer, association or interest, or to those who reside or work in a well-defined community, neighborhood or rural district (using standards established by the National Credit Union Administration).

### *Boards and Commissions*

**House Bill 4081** would require that County School Boards post the position of County Superintendent for at least 30 days prior to making an appointment. The posting requirement would not apply to a reappointment or an interim appointment.

### *Child Welfare*

**House Bill 4055** would create a compact between states for the protection and return of juvenile offenders, runaways, and other juveniles. The Governor of this state would be authorized and directed to execute a compact on behalf of the state of West Virginia with any other state or states to execute the compact for the supervision and return of juvenile offenders, juvenile runaways and other juveniles.

### *Courts*

**House Bill 4066** would increase certain County Clerk, Circuit Clerk, Assessor, Sheriff, Prosecuting Attorney and Magistrate Court fees and dedicate the fee increases to the Courthouse Facilities Improvement Fund. Other portions of the increased fees would go toward a special revenue account administered by the Executive Director of Public Defender Services to provide funding for private attorneys appointed to provide representation.

### *Crimes*

**House Bill 4079** would establish a program to employ rehabilitative drug treatment instead of incarceration for most persons arrested for nonviolent drug offenses. There would also be created in the State Treasury a special revenue account which would be known as the "Substance Abuse Treatment Trust Fund". The fund would consist of all appropriations to the fund and all interest earned from the investment of the fund and any gifts, grants or contributions received.

### *Education*

**House Bill 4037** would provide for an appropriation of at least \$8 million for alternative education programs. The first \$2 million would be distributed to the counties based on net enrollment and the remainder would be distributed to counties in competitive grants for pilot or innovative programs.

### *Energy*

**House Bill 4050** would transfer all powers and duties of the Public Energy Authority relating to bonding authority, including statutory responsibilities and contractual obligations related to outstanding bonded debt, to the State Treasurer.

## Locating Bill Status

The Legislature's website has implemented full bill content and bill status. To track legislation electronically, use [www.legis.state.wv.us](http://www.legis.state.wv.us) and click on bill status.

For those of you who may know someone who would like to receive a copy of legislation in braille, the Legislature can now accommodate this request. Use the toll-free line to request a copy of a bill at: 1-877-56-LEGIS (1-877-565-3447)

members to convert to standard retirement when they turn 55 years old, and provide a three percent Cost of Living Allowance (COLA) under the State Police Retirement System (Plan B).

*State Police*

**Senate Bill 200** would require an annual report be filed with the Legislature on or before January 1st of each year by the Superintendent of the State Police which includes a summary of the efforts and the effectiveness of recruiting females, African Americans and other minorities.

**Senate Bill 225** would increase the base salary of sworn State Police personnel by 18 percent effective July 1, 2004.

*Taxation*

**Senate Bill 114** would enact the Tax Free Family Meal Act of 2004, eliminating the sales tax on groceries. The Act would look to generate the appropriate funding received by the taxes on food by increasing other taxes on certain products, including beer, liquor, soft drinks, cigarettes and other tobacco products.

**Senate Bill 135** would reissue the sales tax holiday for the purchase of back-to-school clothing and school supplies, including computers and computer accessories, during a three-day period beginning August 6th and ending August 8th of 2004.

**Senate Bill 204** would allow for the sale of unused Strategic Research and Development Tax (R&D) credits.

*Tobacco and Tobacco Products*

**Senate Bill 103** would create the Tobacco Free School Act. This Act would prohibit tobacco use in all school buildings and grounds and increase the penalties for such violation of this provision. The measure would increase the fine for violation of the Act to at least \$50 and up to \$250. As the Code reads now, the fines are \$1 to \$5.

**Senate Bill 170** would increase penalties for use or possession of tobacco or tobacco products by minors. The bill would increase fines and place additional community service requirements upon those minors who violate this proposal.

*Gaming Activities*

**House Bill 4059** would distribute the net terminal income of racetrack video lottery terminals from reduced distributions to the Tourism Development Fund to be deposited in the Development Office Promotion Fund and in the Higher Education Policy Commission's Research Challenge Fund. This bill would also provide for uses and expenditures of such funds.

*Health*

**House Bill 4076** would require the Secretary of the Department of Health and Human Resources to consider a method to obtain Medicaid reimbursement to retail pharmacies for the cost of certain prescriptions in a dosage that is less than the smallest available package and there is a reasonable expectation that the remaining portion of the broken package cannot be sold.