

# UNDER the DOME



MARCH 16, 2016

## Welcome

Under the Dome is an update on actions and activities of the West Virginia Legislature, provided during the regular legislative session and interim sessions for West Virginia University faculty and staff by WVU's Office of State, Corporate and Local Relations. This issue provides a review of the 2016 legislative session, the key accomplishments critical to WVU, the high-profile bills passed and defeated, and the budget proposals unveiled by the governor and legislature.

## 2016 Session – An Overview

The second session of the 82<sup>nd</sup> Legislature concluded at midnight on March 12. Governor Tomblin extended the 60-day regular session through Tuesday, March 15, in order to deal with the budget. There was no agreement between the two chambers on the final budget. Therefore, it is expected that the legislature will reconvene in late spring to further consider the budget before the new fiscal year begins on July 1, 2016. A balanced budget must be signed by the governor before that date.

A total of 1,896 bills were introduced this session; 276 bills completed legislative action, meaning they passed both chambers. Of that number, 139 originated in the House and 137 originated in the Senate.

The full list of completed legislation can be found on the Legislature's "Bill Status" page at [legis.state.wv.us/Bill\\_Status/Bills\\_all\\_pass.cfm?year=2016&sessiontype=RS&btype=bill](http://legis.state.wv.us/Bill_Status/Bills_all_pass.cfm?year=2016&sessiontype=RS&btype=bill).

A total of 169 resolutions were adopted this session. To see a full list of the resolutions approved, visit [legis.state.wv.us/Bill\\_Status/res\\_all\\_pass.cfm?year=2016&sessiontype=rs&btype=res](http://legis.state.wv.us/Bill_Status/res_all_pass.cfm?year=2016&sessiontype=rs&btype=res).

## Protecting WVU Tech

A bipartisan group of House and Senate members introduced bills to ensure the continued viability of WVU Tech. **HB 4310** (sponsored by Delegates John O'Neal, Bill Anderson, Lynne Arvon, Mick Bates, Paul Espinosa, Barbara Fleischauer, Cindy Frich, Brian Kurcaba, Tim Miley, Eric Nelson and Joe Statler) was introduced on January 27. A companion bill, **SB 386** (sponsored by Senators Jeff Mullins, Bob Beach, Craig Blair, Ed Gaunch, Mike Hall, Jeff Kessler, Roman Prezioso, Charles Trump and Bob Williams), was introduced as well.

**HB 4310** passed the House on February 22. It passed the Senate on March 7. Because the Senate Education Committee amended the bill, it returned to the House to concur with the amendments, which occurred on Friday. The bill has been sent to the governor's desk for his signature.

## Efficiencies for Higher Education

Three bills passed that provide critical efficiencies and cost-savings for the University's operations.

**SB 594** allows the state auditor to consider an agency-generated electronic invoice as an original invoice, provided that the invoice contains the vendor's name, address, invoice number, date, amount, description of items purchased or services provided as well as other details. This will provide efficiency and cost-savings. It passed both chambers unanimously and has been signed by the governor.

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**SB 439** eliminates the requirement that the state budget director must approve personal services payment under certain circumstances. This will streamline the payroll process, while retaining transparency and accountability. The bill passed both chambers and has been sent to the governor for his signature.

**SB 369** reduces the number of reports that the University must make to the Legislative Oversight Commission on Education Accountability. It passed both chambers and has been signed by the governor.

## The Budget

The governor introduced his budget during his State of the State speech in January. The budget presented at that time used no money from the State's Rainy Day Fund, funded PEIA and raised several taxes, including taxes on tobacco and tobacco-related products and a telecommunication tax increase, as well as other revenue-generating measures. In the final week of session, the Senate Finance Committee and the House Finance Committee unveiled their budget proposals, which were quite different from each other, as well as the governor's original proposal.

**SB 269** was the Senate's budget bill. It uses no money from the State's Rainy Day Fund, provides additional funding to PEIA, raises the tobacco tax, raises the gas tax and eliminates subsidies to greyhound racing, as well as other revenue-enhancing measures, and does not make further cuts to state agencies. The bill passed the Senate 29-5 on March 10.

**HB 4017** was the House's budget bill. It balances the budget by using additional money from the State's Rainy Day Fund, sweeping several agency revenue accounts for extra funding, and making some minor increases in cuts to state agencies. However, higher education institutions are not included in those further cuts. It contains no additional tax increases, while providing some additional funding to PEIA.

The two bills were merged into one measure – **SB 269**.

Because of the disagreements between the two chambers, the president of the senate and the speaker of the house appointed budget conferees to negotiate a final bill. Those budget conferees were:

### Senate

Mike Hall, R-Putnam  
Chris Walters, R-Putnam  
Dave Sypolt, R-Preston  
Robert Plymale, D-Wayne  
Roman Prezioso, D-Marion

### House of Delegates

Eric Nelson, R-Kanawha  
Bill Anderson, R-Wood  
Eric Householder, R-Berkeley  
Carol Miller, R-Cabell  
David Perry, D-Fayette

The conferees met on Monday, March 14, to begin their deliberation. Leadership met with Governor Tomblin to receive new revenue projections for the State, which gave a more recent estimate of the shortfall facing state officials and can be found here: [governor.wv.gov/media/pressreleases/2016/Pages/Governor-Tomblin-Issues-Statement-on-Budget-Following-New-Revenue-Estimates-for-Fiscal-Year-2017.aspx](http://governor.wv.gov/media/pressreleases/2016/Pages/Governor-Tomblin-Issues-Statement-on-Budget-Following-New-Revenue-Estimates-for-Fiscal-Year-2017.aspx).

Final agreement was not reached by Tuesday, March 15. The Legislature adjourned and will wait for the governor to call them back into special session. It is expected that they will return in late spring to finish consideration of the budget. The new fiscal year begins on July 1, 2016.

## High-Profile Bills

*The following bills completed legislative action.*

### **Crowdfunding**

**HB 2615** will assist small businesses to access capital in order to grow their businesses. This will allow West Virginia residents to directly invest in a small business or idea that would otherwise struggle to obtain conventional or bank financing.

### **Uber/Lyft**

**SB 430** and **HB 4305**, authorizing transportation network companies to operate in the state (also known as the Uber bill), were introduced at the request of Governor Tomblin. They were expected to have bipartisan support and pass both chambers this session. **HB 4228** is a similar bill. It passed House Roads and Transportation and House Finance. It passed the House overwhelmingly and the Senate unanimously. Because the Senate amended the bill, it returned to the House for approval. The House concurred with the Senate amendments, and the bill is now awaiting the governor's signature.

### **Right to Brunch**

**SB 298**, commonly referred to as the "Right to Brunch" bill, would allow for the sale of alcoholic beverages at restaurants, bars, wineries and distilleries beginning at 10 a.m. on Sundays. The bill passed the Senate unanimously on February 16. The bill stalled in the House, but was ultimately considered by the House Roads and Transportation Committee. A referendum was added to the bill to allow each county commission to put the issue before the voters. The House Judiciary Committee amended the bill to provide the choice to be either on the primary or general election ballot. The bill passed the House 84-15 on Saturday. It is expected to be a boost to the tourism industry throughout the state, if approved by the county jurisdiction.

### **Firearms**

**HB 4145**, which is referred to as "Constitutional Carry" or "Permitless Carry" bill, provides for open carry of firearms to West Virginia citizens and provisional concealed carry permits to 18-20 year olds. The bill retains concealed carry permit processes for reciprocity rights with other states. The bill passed the House 68-31. It passed the Senate 24-9. Due to the Senate's amendments, it returned to the House for approval of the changes. Governor Tomblin vetoed the bill, citing safety concerns for law enforcement. The House voted to override the governor's veto, and the Senate did the same.

### **Transportation and Infrastructure**

**HB 4009**, Letting Our Counties Act Locally Act, was introduced and assigned to House Roads and Transportation. This bill, whose lead sponsor is Delegate Joe Statler of Monongalia County, would generally allow counties to use a 1 percent sales tax to fund the construction of new roads and bridges and upgrading of current roads and bridges. The bill passed the House 60-39 on February 26. It passed the Senate 28-6 on Saturday.

### **Judicial Compensation Commission**

**SB 339** creates the Judicial Compensation Commission, which is tasked with studying compensation for Supreme Court justices, circuit court judges, family court judges and magistrates. The board will consist of five members, including the dean of the WVU College of Law, an individual appointed by the Senate president, an individual appointed by the House speaker, and two individuals appointed by the governor. The board will be appointed by July 1, 2016. Its first report is due by September 1, 2017.

### **Common Core**

The House Education Committee held a public hearing on **HB 4014**, which prevents the State Board of Education from implementing academic assessments and standards, commonly referred to as “Common Core.” A number of bills have been introduced this year related to this issue. Gypsy Denzine, dean of the WVU College of Education and Human Services, spoke at the public hearing. Dean Denzine and the College researched, assessed and analyzed data collected through the State Board’s Academic Spotlight review in 2015. The bill passed the House on February 26. It passed the Senate last Thursday 22-12. The Senate removed elimination of the state science standard, and the House concurred with that change.

### **Prevailing Wage**

**HB 4005**, which repeals prevailing wage, passed the House and Senate. Governor Tomblin vetoed the bill. A simple majority of members is needed to override the governor’s veto, and the House and Senate voted to override the veto.

### **Right to Work**

**SB 1**, Establishing West Virginia Workplace Freedom Act (commonly referred to as Right to Work), was passed by the Senate and House. Governor Tomblin vetoed the bill. A simple majority of both houses is needed to override the governor’s veto, and the Senate and House voted to override the veto.

### **Election Reform**

**SB 5**, requiring voters to present photo ID when voting, was introduced and assigned to Senate Judiciary. A similar bill, **HB 4013**, passed the House. It passed the Senate as well. Voters will be required to present at least one allowable document at their polling place in order to prove their identity before voting. It also includes a provision for automatic voter registration of individuals getting an identification or driver’s license from the Division of Motor Vehicles, unless the individual opts out.

### **Regulatory Reform Act**

**SB 619**, known as the 2016 Regulatory Reform Act, requires a state agency to take into consideration several factors before promulgating a rule. The agency must review and publish public comments, when applicable. It must also perform an economic impact study, as well as a public health impact. The bill gives an agency approval to contract with a public university in both areas. Specifically, BBER and the WVU School of Public Health could see a request for assistance in these matters. The rule must be reviewed and approved by the Legislative Rule-Making Review Committee. The bill also includes language that any rule promulgated after April 1, 2016, shall expire after five years.

### **Upper Kanawha Valley Resiliency and Revitalization Program**

Senator Bill Laird (D-Fayette) introduced **SB 656** on February 20. The bill creates the Upper Kanawha Valley Resiliency and Revitalization program. A council is to be established by the Department of Commerce to provide resources and expertise to study and create ideas to improve the economy and quality of life of the Upper Kanawha Valley area of Kanawha and Fayette counties. The bill passed both the House and the Senate. It now goes to the governor for his signature.

### **Internet Privacy Protection Act**

**HB 4364** prevents an employer from compelling an employee or applicant for employment from providing user-name, password or other information for social media accounts, unless the technology used is provided by the employer. The bill was sponsored by Delegate Stephen Skinner (D-Jefferson), a graduate of the WVU College of Law.

### **Senate Concurrent Resolution 5**

**SCR 5** requests that the Division of Highways name Exit 153 – the new I-79 exit at Monongalia County Ballpark – as the “Coach Bill Stewart Exit” in honor of the late Mountaineer coach.

### ***Combating Drug Abuse***

Several bills were introduced dealing with the issue of drug abuse. The House Speaker created a special committee, the Select Committee on Prevention and Treatment of Substance Abuse, to review many of the legislative proposals. At the request of Governor Tomblin, two major bills were introduced and passed by the Legislature.

**SB 431** expanded the Opioid Antagonist Act of 2015. It permits a pharmacist or intern under supervision of a pharmacist to dispense an opioid antagonist without a prescription to those they believe are suffering from an opioid-related overdose.

**SB 454** creates the Medication-Assisted Treatment Program Licensing Act, which establishes requirements for facilities and physicians that treat patients with substance abuse disorders to ensure that patients may be lawfully treated by the use of medication and drug screens, in combination with counseling and behavioral therapies, to provide a holistic approach to addiction treatment, and gives oversight to the Department of Health and Human Resources.

*The following bills did not complete legislative action.*

### ***Tobacco Tax***

**SB 420**, introduced by Senator Jeff Kessler at the request of Governor Tomblin, increases the tax on cigarettes, tobacco products and other related goods, such as e-cigarettes. HB 4494, a companion bill that is sponsored by Delegate Tim Miley at the request of the governor, was introduced. SB 420 passed the Senate 26-6. The Senate included a \$1 increase on the tax. The governor's original proposal called for an increase of \$0.45. The House Finance Committee debated the bill, but it ultimately failed to pass. These measures were amended into the Senate's budget bill and the joint budget bill in the House, but final approval of the budget has yet to be decided.

### ***Religious Freedom Restoration Act***

**HB 4012**, titled the Religious Freedom Restoration Act, passed the House 72-26 with bipartisan support and bipartisan opposition. Proponents argued that the bill will preserve religious freedom for individuals, while opponents believed that religious freedom would be used as a tool for discrimination. In the Senate, the bill was changed by the Senate Judiciary Committee. On the floor, a majority of senators successfully amended provisions protecting local nondiscrimination ordinances and state vaccination policies into the bill. The Senate ultimately defeated the bill.

### ***Horizontal Well Unitization/Forced Pooling***

**HB 4426**, the Horizontal Well Unitization and Landowner Protection Act of 2016, was introduced on February 5. It is commonly known as horizontal well unitization by proponents and forced pooling by opponents. The bill was not considered by the House this session.

### ***Charter Schools***

**HB 4011**, Providing for the Authorization and Oversight of Public Charter Schools, established a charter school system in the state. It was introduced on January 20 and assigned to House Education. **SB 407** is the companion bill introduced in the Senate. Neither bill was considered by the Legislature this session.

### ***Judicial Reform***

**SB 9**, Creating Intermediate Court of Appeals, was introduced and sent to Senate Judiciary and Senate Finance. The bill was not considered by the Senate this session.

## Actions by the Governor

Governor Tomblin has signed several bills already and has vetoed a few. Highlights of the governor's actions include:

- Signed **HB 3019**, which requires all official business and records of the State and its political subdivision be conducted in English.
- Vetoed **SB 10**, the Unborn Child Protection from Abortion Dismemberment Act (the Legislature voted to override the governor's veto).
- Signed **SB 387**, the Shared Animal Ownership Agreements to Consume Raw Milk, commonly referred to as the "Raw Milk Bill" (the governor vetoed the measure last year but signed it this year citing oversight agreement by Bureau for Public Health and Department of Agriculture).
- Signed **SB 32**, which creates a process for withdrawal of candidates for office and filling the vacancies left on the election ballot.
- Signed **SB 419**, which terminates the Workers' Compensation Debt Reduction Act, which used an increase in severance tax on coal and natural gas to reduce the outstanding debt in the old workers' compensation fund.

To search all actions by the governor on any bill passed by the Legislature, please visit the governor's "Bill Status" web page at [governor.wv.gov/media/Bill%20Status/Pages/default.aspx](http://governor.wv.gov/media/Bill%20Status/Pages/default.aspx).

## Appointments by the Governor

On March 4, Governor Tomblin announced the appointment of Scott Rotruck to the State Board of Education. Rotruck is the director of energy and transportation services at Spilman Thomas & Battle in Morgantown. He has an undergraduate degree from WVU and has worked in government relations and the private sector for many years. He previously served as economic development director and senior advisor at the University and taught a course in entrepreneurship at the College of Business and Economics. His appointment fills the vacancy created by the resignation of Wade Linger.

## WVU at the State Capitol

Travis Mollohan and Rocco Fucillo, both from WVU's State, Corporate and Local Relations, represented WVU at the Capitol during the 60-day session. They can answer questions about any bill addressed during the legislative session.

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## More Information

To learn more about the Legislature, including district maps, bill tracking, committee assignments and a summary of legislative activities, please visit [legis.state.wv.us/index.cfm](http://legis.state.wv.us/index.cfm).

To learn more about WVU's legislative initiatives, please visit [staterelations.wvu.edu](http://staterelations.wvu.edu).