

1 **H. B. 2394**

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3 (By Delegates Fleischauer, Caputo, Miley  
4 and Manchin)

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6 [Introduced January 12, 2011; referred to the  
7 Committee on Education.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §18A-5-9; and to  
12 amend said code by adding thereto a new section, designated  
13 §18B-1-12, all relating to the protection of the academic  
14 speech of professional educators.

15 *Be it enacted by the Legislature of West Virginia:*

16 That the Code of West Virginia, 1931, as amended, be amended  
17 by adding thereto a new section, designated §18A-5-9; and that said  
18 code be amended by adding thereto a new section, designated §18B-1-  
19 12, all to read as follows:

20 **CHAPTER 18A. SCHOOL PERSONNEL.**

21 **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

22 **§18A-5-9. Academic freedom.**

23 An employee in West Virginia public schools may not be  
24 disciplined, denied employment or denied promotion based upon his  
25 or her speech, research or writing related to public issues:

26 Provided, That nothing herein protects speech or actions that

1 constitute a crime or otherwise prohibited by law. This section  
2 does not limit a school board's rights to set curriculum and  
3 academic standards.

4 **CHAPTER 18B. HIGHER EDUCATION.**

5 **ARTICLE 1. GOVERNANCE.**

6 **§18B-1-12. Academic freedom.**

7 A professional educator employed by a West Virginia public  
8 higher education institution may not be disciplined, denied  
9 employment or denied tenure based upon the content of his or her  
10 speech, research or writing related to his or her academic  
11 employment: *Provided*, That nothing herein protects actions that  
12 constitute a crime or otherwise prohibited by law. This section  
13 does not limit an institution's rights to set and enforce standards  
14 for academic scholarship, research methods and practices.

NOTE: The purpose of this bill is to protect academic speech of professional educators.

These sections are new; therefore, it has been completely underscored.