



WRAP-UP

The Newsletter of the West Virginia Legislature

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Job Creation Shines Bright in State of the State Address

by Joe Merical

Under the newly cleaned lights of the House Chamber's chandelier, the 78th Legislature kicked off its second regular session by gathering for the Governor's annual State of the State Address. Required by Article VII, Section 6 of the West Virginia Constitution, the address is the Governor's opportunity to present his agenda for the upcoming session as well as his proposed budget for the next fiscal year.

This year's address highlighted much of the progress the state has made in attracting business investment and job creation. The Governor pointed to a study by Expansion Management Magazine and the National Policy Research Council that ranked West Virginia eight in the nation in business recruitment and attraction. He also lauded the state's 4.6 percent unemployment rate last year, the lowest in West Virginia history. Correspondingly, an average of 778,269 West Virginians were employed last year, a record high for the state.

The Governor also emphasized the progress the state had made in upgrading its infrastructure. In 2004, only 58 percent of West Virginians had access to broadband Internet. Now, that number is up to 80 percent, with the goal of reaching 100 percent by 2010. In addition, sewer and water systems have been upgraded throughout the state thanks to a \$300 million investment by the state since 2004.

The speech was more than just a recap of the state's recent progress, and already the Legislature has received some of the Governor's State of the State proposals in the form of legislation. This includes a bill that would suspend or deny driver's licenses for high school students who drop out or who fail to maintain a 2.0 grade point average. Education was also the focus of another bill borne out of the State of the State Address; this bill would require Promise scholarship recipients to repay the loan if they work out of state after graduation.



78th Legislature Begins its Second Regular Session

Senate President Earl Ray Tomblin and Speaker of the House of Delegates Richard Thompson convene with lawmakers under the newly-refurbished chandelier in the House Chamber to hear Governor Manchin's fourth State of the State Address on January 9, 2008.

photo: Martin Valent

After the address, both houses reconvened to introduce the budget bill. The proposed budget will dole out \$14.19 billion based on an estimated \$14.69 billion in revenues. The Senate and House Finance committees will work with the budget bill throughout the session. At the end of the regular session, the Legislature traditionally meets for an extended session devoted specifically to passing the budget bill.

While the State of the State Address marks the beginning of session, only a handful of the bills sent to the Governor before the end of session find their genesis in the speech. Already, nearly 1,000 bills have been introduced in both houses, with only a small percentage introduced by request of the Governor. Many of these are House bills that have been carried over from last regular session or Senate bills that were introduced last year but failed to pass. Many of the new bills for this session are based on work done in interim committees prior to session, while others are based on requests or concerns expressed by constituents.

Over the 60-day session, legislative committees will mull these bills over. Only those that lawmakers consider the most important will make it out of committee and be sent to the Governor. The process is, for the most part, slow and deliberate, but it ensures that each bill receives the proper attention it deserves.

Throughout the session, you can keep track of every bill on the Legislature's Web site at <http://www.legis.state.wv.us/>. On the site, you can find contact information for your legislators and use personalized bill tracking to keep tabs on the bills most important to you.



In the House

As of 4:00 p.m., Wednesday, January 16, 2007, the eighth day of the 2008 Regular Session, 60 bills have been introduced. Another 635 carry-over bills from last session were reintroduced in the House of Delegates. A sampling of bills introduced include:

House Bill 4004 would provide funds for the maintenance, repair and preservation of statues located on the Capitol grounds. The money would come from a portion of the lottery fund as well as any appropriations, gifts and grants given to the "Lottery Maintenance, Repair and Preservation of Statues on the Capitol Grounds Fund."

House Bill 4005 would extend the current tax credit for alternative fuel motor vehicles from the current 10 years to 20 years. It would also make the credit retroactive from the expiration date from the original tax credit.

House Bill 4012 would give a corporation net income tax credit for providing heating fuel or propane gas services at special reduced rates for low-income residential customers. The amount of the tax credit will be equal to the cost of providing the heating fuel or propane gas.

House Bill 4013 would require the Director of the Division of Veteran's Affairs to establish a healthcare database between all of the state's veteran's hospitals. The database would provide veterans easy access to different care options.

House Bill 4015 would give teachers in "critical needs" areas of education a tax credit against personal income taxes for the first three years. If the teacher were still educating in a "critical needs" area after five years, the tax credit would equal 50 percent of the teacher's taxes that are due. Areas labeled as "critical needs" would be decided by the State Board of Education.

House Bill 4020 would authorize disclosure of specific mental health records to the National Instant Criminal Background Check System. If an individual has been involuntarily hospitalized, ruled mentally incompetent in a court proceeding, or has regained the ability to own a firearm, their mental health records would be sent to the National Instant Criminal Background Check System.

House Bill 4021 would eliminate the requirement for a battery-powered strobe light to be attached to a self-contained self-rescue device. It would also extend the current theft and destruction penalties for certain pieces of coal mine equipment and property. The bill would establish criminal penalties for individuals who enter onto coal mine property to commit a felony or larceny.

House Bill 4022 would create the Indigent Defense Commission. The purpose of the commission would be to assist Defender Services with general policies and procedures. The commission would also provide additional management of the costs and administrations of the Public Defender Corporations. Members of the commission would include the Director of Public Defender Services, Director of Prosecuting Attorneys Institute and others appointed by the Governor.

House Bill 4023 would deny a student, between the ages of 15 and 18, a driver's license if he or she does not obtain passing grades. A Driver's Eligibility Certificate or other form of proof that the student meets the requirement must be presented before he or she is able to receive their license. A student who has a license has failing grades will have their license revoked.

House Bill 4024 would make the false reporting of a violent act a felony and would also add new language that would clearly define what "acts of violence" include. Some of those acts are: Unauthorized individuals carrying a weapon on school property, someone committing an action that is or could become life-threatening while on school property, and the action of kidnapping or holding hostages on school grounds.

House Bill 4025 would give further protection to whistle-blowers for reporting unsafe working conditions in mines. A miner who refuses to enter a mine that he or she deems unsafe cannot be discriminated against under provisions of this bill. If a miner feels they were discriminated against or unjustly compensated, they would be able to file a complaint that then would be thoroughly investigated.

House Bill 4026 would restrict the public's access to concealed weapons' permit records. Those allowed access to these permit records would include; the applicant or licensee themselves, a qualified executor of the estate for an applicant or licensee, an attorney at the behest of the applicant or licensee, and an authorized representative of the law enforcement for official duty purposes.

House Bill 4037 would reduce the state income tax for certain county, state and federal retirees. To accomplish this, there would be an increase in the amount excluded from the retiree's income, not to exceed \$20,000 when calculating the federal gross income for state personal income tax purposes.

House Bill 4038 would prohibit a person from undertaking the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators without successfully completing the Qualified Elevator Inspector license from an examination organization approved by the Division of Labor Commissioner. The bill would be effective on the first day of January 2010. Failure to comply by the new guidelines would be a misdemeanor and carry various penalties.

House Bill 4042, or the Equal Parenting Act, would establish the presumption, unless otherwise disputed, of joint legal and physical custody of the children in child custody matters. The bill would call for equal parenting to be established so that the child or children spend the same amount of time with both parents. The only exception would be

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In the Senate

As of 5:00 p.m., Wednesday, January 16, 2008, the eighth day of the 2008 Regular Session, 238 bills have been introduced in the Senate. A sampling of those bills include:

Senate Bill 1 would prohibit the price gauging of oil. Any entity, business, person, or contractor offering to sell heating oil, gasoline, or motor fuel for more than 10 percent above the market value would be in violation of this law. This bill grants the Attorney General the authority to investigate and charge persons participating in the price gouging of heating oil, gasoline and motor fuel any time during the year.

Senate Bill 7 would establish a Flood Protection Planning Council. This council, which would be composed of five members from appropriate state agencies, would work together to perform various tasks, such as coordinating flood protection programs, reviewing current emergency plans and updating the state flood protection plan. The committee chair would report to the commission at least four times a year on the status of flood protection planning, proposed legislative recommendations and submit an annual report. The bill would allow for the formation of The State Flood Protection Planning Advisory Committee, which would evaluate the effectiveness of current emergency plans and make suggestions for more beneficial ones.

Senate Bill 9 would mandate a firearm safety program in public schools. This bill would offer students in grades seven through nine an opportunity to learn about firearm safety during a two-week orientation program. The advice and information involved with this program would come from the Division of Natural Resources.

Senate Bill 18 would allow paid sick leave to be used as paid family leave. An employer would be allowed to require certain articles of certification from the health care provider of the ill family member. In this event, health care providers would record that the family member or employee has

a serious health condition, the date they treated the patient, the expected duration of the illness, and information regarding the health condition.

Senate Bill 27 would increase the penalty of people under the age of 18 who use or possess tobacco. First time offenders would pay an increased fine of \$100 and perform 40 hours of community service, which is 31 hours more than previously required. Second time offenders would pay \$150 in fines and have to complete 60 hours of community service. Also, repeat offenders would have their junior or senior driver's licenses revoked. In the event that they do not have either license yet, they would be considered ineligible to apply for any type of driver's license until they are 18.

Senate Bill 56 would provide fee waivers for certain higher education students. Each state institution would waive all fees for students who are residents of West Virginia and have successfully completed certain programs. These programs are those in the health sciences that assist junior and senior high school students to further their careers in the field of health sciences.

Senate Bill 65 would establish a school uniform incentive program for elementary schools. The bill would set aside \$100,000 for the State Education Board to provide funding for the participation of up to 10 schools. This pilot program would take place during the 2008-2009 school year. The first 10 schools meeting the established criteria would be chosen to adopt and use school uniform policies in their schools. Each chosen school will receive \$10,000 to use towards implementing these policies.

Senate Bill 73 would require defendants to pay certain costs of incarceration. A sentencing court would meet to evaluate a defendant's ability to pay the costs of incarceration. If the defendant were found to be able to pay the costs, then they would be responsible for the costs for up to 30 days of his or her incarceration.

Senate Bill 80 would require that adjoining landowners be notified of timbering operations. Notice of the filing of the registration to begin timbering operations would have to be sent to adjoining landowners by mail at least three days before the beginning of the operation.

Senate Bill 157 would require at private clubs all employees selling alcohol to take an awareness course. Retail outlet employees and employers hired before July 1, 2008 would have to participate in techniques for education and alcohol management program (TEAM) within 60 days of beginning work and every three years after that. However, persons working in the same venue before this date would have to complete the training every three years.

Senate Bill 162 would create drug courts to serve as alternative sentences for persons convicted of DUI's. These alternative sentences would only be available to persons not convicted of violent crimes or any other felony in West Virginia. These courts would require these convicts to complete certain acts of rehabilitation including supervised continuous treatment, mandatory and periodic drug and alcohol testing, and the use of further rehabilitation services.

Senate Bill 176 would allow municipalities to provide free parking for certain veterans. These veterans would have to certain identification on their automobile that identifies them as a veteran. Motor vehicles displaying special registration plates for those veterans would be granted free parking.

Senate Bill 177 would increase the penalty for persons participating in activities associated with controlled substances with a child present. Anyone who is convicted of creating, possessing or distributing a controlled substance in the presence of a child would be charged with a felony, with a penalty of 15 to 35 years in a state jail.

Senate Bill 212 would require people wishing to renew their driver's license to take a vision test. The vision test would be administered by the Division of Motor Vehicles and be the same for all applicants. People unable to pass the test the first time would be allowed to provide evidence to show that his or her vision has been corrected. However, people who fail the test and are unable to prove that their eyesight may be corrected in the future

West Virginia Legislature's Web site

Designed to strengthen your connection to West Virginia's legislators and the laws that govern this state, the West Virginia Legislature's Web site provides you with access to various resources, including contact information, legislation and educational materials. The Legislature's online Bulletin Board maintains prompt information during legislative sessions through the Legislature's Calendars, Meetings, Abstracts, Indexes and Journals. Citizens also can view the entire West Virginia Code, interactive district maps, committee agendas and membership information at: <http://www.legis.state.wv.us>

if it were shown that the child is or may be harmed. Proof that a child is at risk with one of the parents would require a written finding, not simply allegations alone.

House Bill 4047 would prohibit the usage of cell phones and other defined "text-messaging devices" while driving. The only exception would be in the case of an emergency or the use of a hands-free device. School Bus drivers would also prohibited from using a cellular device except under limited circumstances such as an emergency.

House Bill 4051 would only allow healthy beverages and healthy, nutritional foods, to be sold in county school systems. Fruits, vegetables, cheese, yogurt and whole grain foods were all mentioned as healthy and nutritional snacks. Each food or drink served could not contain more than 200 calories.

House Bill 4052 would establish a council within the Office of Maternal, Child and Family Health, to advise on maternal risk assessment. The purpose of the council is the need

for a more absolute and uniform approach to the screening of at-risk or high-risk pregnancies performed by physicians. The advisory council would be comprised of various individuals including: Commissioner of the Bureau of Public Health, member of both a public and private provider of maternity services, Director of the Office of Maternal, Child and Family Health and a certified nurse midwife.

House Bill 4057 would authorize County Commissions to create a combined joint emergency services agency. This agency would obtain the rights and the responsibilities of emergency ambulance services, county fire associations, and county fire boards. A board comprised of between five to 15 individuals would manage the agency.

House Bill 4058 would require group insurance companies to furnish their claims experience upon the request of their policyholders. The insurer must submit these claims within 30 days of the initial request unless that information was sent at least six months prior to the group policyholder.

would be refused the opportunity to renew their licenses.

Senate Bill 213 would require Promise Scholars to repay their scholarship under certain circumstances. If a Promise Scholar elects to work outside the state after graduation, then they would be required to pay back the amount of their scholarship, in whole or in part. However, this rule would not be applicable to scholars who were not informed of this requirement in writing before the initial acceptance of the scholarship.

Senate Bill 216 would eliminate the coalbed methane tax exemption under the Severance and Business Privilege Tax Act. This bill would allow all coalbed methane, including methane produced after January 1, 2008, to be taxable as a natural resource. Coal bed methane wells in operation before January 1, 2008, would be exempt from this tax. This tax would make the taxation of natural gas and coalbed methane equal and give certain amounts of the tax revenue to the West Virginia Infrastructure Fund.

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