



# WRAP-UP

The Newsletter of the West Virginia Legislature

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## Legislative Session Begins as State Remembers Sago Miners

by Jessica Stanton

For the Legislature, the beginning of a new year signifies the beginning of a new legislative session - and a new opportunity to move the state forward. This new year, however, brought with it much heartache for the people of West Virginia. And when lawmakers convened at the Statehouse for the beginning of the 2006 Regular Session, it was clear that while the business of the state was on the agenda, so were sentiments of remembrance and remorse for the Sago miners and their families.

With the tragedy that occurred on January 2 in Tallmansville, WV, state and federal leaders have initiated investigations into the events surrounding the disaster. To avoid duplicating the inquiries, a bipartisan legislative committee comprised of six lawmakers will be working with state investigators to determine what went wrong inside the mine and how such a distressing communications breakdown could occur outside of it.

This legislative component was added to not only provide a broader perspective from the committee members' diverse constituencies during the course of the examination, but also to determine any necessary policy changes that could improve mine safety and rescue efforts.

While lawmakers continue to follow the Sago investigations, they also are moving forward with a detailed legislative calendar involving certain issues that, according to the Senate President and Speaker of the House, will likely take center-stage as the Regular Session advances. These span a variety of important matters, including the availability and affordability of health care for working West Virginians; the protection of children from abuse and neglect; and, the state's financial standing, both now and in the future.

Although the final versions may be more far-reaching, the Legislature is working on two proposals that address citizens' access to affordable health care. One would establish a pilot program for clinic-based health care by authorizing participating clinics and private medical practitioners to provide basic, preventive services for a prepaid fee. For more comprehensive coverage, lawmakers also are working on an insurance plan that would allow insurers to offer basic benefits that include primary and preventive care at affordable prices.

To provide for enhanced protection of West Virginia's children, lawmakers are considering legislation that would create a special unit within the State Police to assist Child Protective Services (CPS) in child abuse and neglect investigations. Additionally, separate legislation would direct the State Police to create a state child abuse registry to further support law enforcement and CPS in monitoring the status and location of individuals convicted of these crimes.



### The West Virginia Coal Miner

In the mulched area surrounding the "West Virginia Coal Miner" lie bouquets of flowers, small American flags, and several fully exhausted candles. They serve as symbols of remembrance for the 12 miners who lost their lives and the sole survivor following the mine explosion in Tallmansville, located in Upshur County on January 2. The statue is located directly outside the Main Capitol Building, near the Cultural Center and the West Virginia War Veterans Memorial.

Designed and sculpted by native West Virginian Dr. Burl Jones, "The West Virginia Coal Miner" stands, "in honor and in recognition of the men and women who have devoted a career, some a lifetime, towards providing the state, nation, and world with low-cost reliable household and industrial energy." Four illustrations depicting different aspects of coal mining adorn the statue's base. The statue was commissioned by the 74th Legislature and officially dedicated on December 4, 2002.



# In the House

As of 4:00 p.m., Wednesday, January 18, 2006, the eighth day of the 2006 Regular Session, 692 bills have been introduced in the House of Delegates. Of those, two bills have been passed by the House and sent to the Senate for its consideration. The bills that have passed are:

**House Bill 2136** would require the clerk of the county commission to execute, record and post in a prominent place in the county record room, a disclaimer of the validity and enforceability of certain restrictions and covenants in deeds. The document would contain a disclaimer stating the following: It is the law of this state that certain covenants or restrictions that are based on race, color, religion, ancestry, sex, familial status, blindness, handicap or national origin are invalid and unenforceable.

**House Bill 4007** would update appraisal standards employed by the Public Land Corporation to determine fair market value of public lands. Under this bill, sales, exchanges or transfers of public land would be conducted under competitive bidding procedures, unless the secretary determines it necessary to assure public policies.

## A Sampling of Bills Introduced In the House

**House Bill 2134** would provide a two-tiered personal income tax credit for parents who provide home schooling. A parent or legal guardian who is a resident of West Virginia would be entitled to receive a tax credit against his or her personal income tax liability. The tax credit would be effective upon completion of a school year in the amount of \$500 per child for providing home schooling and in the amount of \$1,000 per child for providing private schooling pursuant to the educational requirements set by the State Board of Education for primary and secondary programs and standards.

**House Bill 2208** would make available to retired participants in the Public Employees Insurance Agency (PEIA) the optional dental, vision, and audiology and hearing-aid services that are available to current employees. Public employees insurance participants would be able to elect to participate in any one of these plans separately or in combination.

**House Bill 3176** would clarify the exemption for property used by not for profit, tax exempt corporations operating homes for the aged or continuing care retirement communities from property taxes.

**House Bill 4010** would create the Office of Family and Child Protection Ombudsman to safeguard abused and neglected children and families. The Ombudsman would coordinate efforts on behalf of children and families, work with advocacy groups, and advocate or promote reforms and changes in law necessary to enhance the protection of children and families involved in abuse and neglect cases.

**House Bill 4016** would amend West Virginia Code to require certification that the offer of proof of the value of property sought to be introduced in an action or suit be at least 90 percent accurate.

**House Bill 4018** would create quarterly meetings of the Community Corrections Subcommittee of the Governor's Committee on Crime, Delinquency and Correction and increase revenue to the West Virginia Community Corrections Fund. The committee would be assigned responsibility by community criminal justice boards and be comprised of 15 members of the Governor's Committee including: a representative of the Regional Jail and Correctional

Facility Authority; someone representing the interests of victims of crime; an attorney employed by a public defender corporation; an attorney who practices criminal law; a prosecutor; and, a representative of the West Virginia Coalition Against Domestic Violence.

**House Bill 4020** would introduce flexibility in health insurance plans to allow insurers to offer basic benefits. This would include preventive and primary care services at affordable prices. The authorized sale of policies with limited benefits including physicians, inpatient and outpatient care, with an emphasis on preventive and primary care, would help provide insurance coverage to many West Virginians without any such coverage.

**House Bill 4021** would establish a pilot program overseen by the Health Care Authority. Through the program, it would be determined if the method of providing primary and preventive health services to subscribers for a prepaid fee could be expanded on a statewide basis.

**House Bill 4032** would authorize the Consolidated Public Retirement Board to charge employees who participate in a state retirement system and fail to pay retirement collections in a timely manner. The delinquency surcharges would approximate the interest of earnings lost as a result of late payment with a minimum surcharge of \$50 per month.

**House Bill 4041** would provide limited immunity to persons who volunteer their services in good faith to public health departments. The limitation of liability would not apply to intentional tortious conduct or acts of gross negligence.

**House Bill 4045** would prohibit the state of West Virginia and its political subdivisions from exercising eminent domain to advantage one private property owner over another and only in cases when it is necessary for public use. Public use would be determined as the possession, occupation, and enjoyment of the land by the general public or by public agencies; or the use of land for the creation of public utilities. Private property would be taken or damaged if the land serves a harmful effect, to remove a public nuisance, if the structure is beyond repair or unfit for human use. The public benefits of economic development, including an increase in tax base, tax revenues, employment and general economic health would not constitute a public use.

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

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# In the Senate

As of 4:00 p.m., Wednesday, January 18, 2006, the eighth day of the Regular Session, 218 bills have been introduced in the Senate.

## A Sampling of Bills Introduced In the Senate

**Senate Bill 12** would make the use of handheld cell phones while driving an automobile a misdemeanor. The use of headsets or speaker systems would be an exemption in the proposed law. The bill would impose a fine of \$100 or less for the first conviction and would not allow for points to be entered on convicted individuals' drivers licenses.

**Senate Bill 13** would require child protective service workers, adult protective service workers, law-enforcement officers and humane officers in the pursuit of an investigation, to report to the appropriate agency or agencies if they find reason to suspect abuse of an individual or animal, other than those that were the subject of the initial investigation.

**Senate Bill 18** would provide tuition waivers for the children or spouses of parole and probation officers who were killed in the line of duty.

**Senate Bill 26** would require health insurance companies to cover the costs of smoking cessation services in the same manner the company covers other pharmaceuticals. The bill would allow for a fine of \$10,000 to be imposed upon the insurance company for violations of this bill. An additional \$10,000 could be imposed every 30 days that the insurance company does not comply with the legislation.

**Senate Bill 70** would raise the amount of the Children's Health Insurance Program (CHIP) coverage from 200 percent to 300 percent of the federal poverty level.

**Senate Bill 75** would make it illegal to sell candy or fruit flavored cigarettes in West Virginia. Violations of this law, upon conviction, would result in a fine of \$500 or less

for the first conviction, and a fine of \$1,000 to \$5,000 upon each additional conviction and/or six months in jail.

**Senate Bill 77** would allow for Emergency Medical Technicians (EMTs) to administer epinephrine to patients to treat allergic reaction and anaphylaxis. This bill would not impose a standard of care not already required by law.

**Senate Bill 78** would increase the penalties for the use or possession of tobacco products by minors, including having drivers license privileges revoked until the age of 18, upon a second conviction.

**Senate Bill 145** would require the State Board of Education to adopt and disseminate guidelines for individual diabetes care plans and require the local boards of education to implement these guidelines. As part of this measure, the information would be made available to teachers and other school personnel in order that appropriate support and assistance be given to students with diabetes. The bill would require the information in the diabetes care plan to meet or exceed the American Diabetes Association's recommendations for care of children with diabetes in the school or child care environment.

**Senate Bill 146** would raise the state minimum wage from \$5.15 to \$5.85 on June 30, 2006; \$6.55 on June 30, 2007; and, \$7.25 on June 30, 2008. This bill would raise the minimum wage in accordance with federal legislation currently being considered by Congress.

**Senate Bill 147** would require non-government West Virginia employers with more than 10,000 employees to pay into a state fund to help subsidize state Medicare expenditures. Non-profit organization employers that do not pay 6 percent of the total wages into health care costs would be required to make payment, of the difference paid and amount due, into the state fund. Employers that are not non-profit and do not pay 8 percent of the total wages to health care costs would have to make up the difference through payment into the state fund.

**Senate Bill 154** would create a sales tax exemption for certain e-commerce software companies. This exemption would seek to encourage these types of business to locate in West Virginia.

**Senate Bill 160** would require the agency state, county or municipality that makes the initial arrest of a suspect to pay for the costs incurred for the first 24 hours of the individual's incarceration.

**Senate Bill 166** would restructure the State Parole Board. The board currently has five members. This bill would increase the number of members to nine and allow for the Governor to appoint the Chair of the Board.

**Senate Bill 176** would allow for higher education providers to increase fees for students taking more than full-time hours. Undergraduate students taking 16 hours or more or graduate students taking nine or more hours could be charged for the additional hours taken above full-time (12 hours) at a rate of 1/9th of full-time rate per credit hour.

**Senate Bill 179** would allow state employees who were unable to convert their sick leave time into their retirement fund, because they used it during a time of sickness, to buy it back through withholdings from their future pay.

**Senate Bill 187** would require all local Boards of Education to develop and implement standards for all public school students to wear uniforms by 2008.

**Senate Bill 202** would allow for the selection of the West Virginia Supreme Court Judges to be through nonpartisan election. The selection of judges would be through General Election beginning in 2008.

**Senate Bill 208** would authorize Public Land Corporations to condemn abandoned structures in water ways that could cause potential flooding and erosion problems. The bill would allow eminent domain to be imposed by the Public Land Corporation on structures that pose potential flood damage. The bill would allow eminent domain only on structures placed on state land by right of entry granted by the state that cause obstruction to a water way, or could cause potential flood problems, or if the structure does not meet the specifications stated in the right of entry. Failure to obtain a right of passage would result in a fine not to exceed \$500 per day that the violation exists.

## 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>

On a similar note, members of the Legislature are looking at legislation that would provide for additional public protection from sex offenders by strengthening penalties and registration requirements. And, as lawmakers look to buckle down on sex offenders, they also will be addressing the potential need for the increased development of alternative sentencing programs.

With prison populations and operating costs projected to continue rising, legislators may consider policy measures to provide that non-violent criminals receive necessary rehabilitation and community service programming, while the most heinous and violent criminals remain incarcerated.

As part of their annual charge to balance the state's budget, lawmakers also are considering various options for the 2006-07 budget, as well as the state's financial future. The Executive Branch

recently presented a five-year outlook of the state's revenues and expenditures. This forecast revealed that while West Virginia's financial picture looks strong now, there are major fiscal challenges on the horizon. According to this projection, the state could see a deficit in 2008 that could continue to grow through 2011.

In preparation for future shortfalls, the Legislature is considering increasing the Rainy Day Fund from 5 to 10 percent of the General Revenue Budget and ways to use some of the current surpluses to pay down the state's debts. Also, in light of the present budgetary outlook, lawmakers may look to address certain immediate concerns by striking a balance between fiscal responsibility and providing the citizens of West Virginia with as much relief as possible.

Although the year began on a heavy-hearted note, members of the State Legislature, much like the citizens

they represent, remain fortified in their commitments to move forward for the betterment of the state -- and for the continued enrichment of a way of life that so many Americans, whose eyes have been fixed on West Virginia, now know is real, honest and invaluable.

This is the first issue of Wrap Up for the 2006 60-Day Session of the West Virginia Legislature.

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