



INTERIM HIGHLIGHTS

CITIZEN'S GUIDE TO INTERIM COMMITTEE MEETINGS OF THE WEST VIRGINIA LEGISLATURE

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Volume XXIII, Issue 2

October 27, 2011

Agri-Business and Agriculture Committee

September - Deer Damage

Members of this committee heard a presentation of "The Deer Damage Survey" by representatives of the WVU Extension Office.

The study focused on deer damage impact on agriculture and the agriculture industry in West Virginia. The Office surveyed over a year and a half and found the best way to assess was a mailed survey to landowners and growers based on models from surrounding states. They used a random sample of a list of 12,000 focusing on horticulture loss due to white tailed deer and more specifically they wanted to look at damage, percentage of what crop and total dollar amount lost in 2009.

Some survey results: 39 percent response rate is just about what could be expected. It wasn't a random sample from entire state, but those likely to encounter deer damage.

Horticulture and agriculture groups fared about the same. Seventy-seven percent of all respondents stated they felt impact of damage due to deer. Thirty types of crops reported damaged and on average, homeowners had two acres affected and growers 20 acres. On average most respondents experienced 0 - 20 percent of crop damage. Majority of homeowners listed less than 500 dollars worth of damage. Producers listed more damage generally. Most said that the instances of the damage has gone up in recent years, slight increase. Overwhelmingly, over 80 percent respondents stated that yes, deer caused problem. Of those, around 70 percent polled said they



MARTIN VALENT WEST VIRGINIA LEGISLATURE

A view of the Fall foliage surrounding the Capitol.

Interim Committee Meetings

2011/ 2012

November 14 - 16, 2011
December 12 - 14, 2011
January 8 - 10, 2012

like to have them around however. On the topic of future of deer management - 72 percent would like to see a decrease in the deer numbers.

Select Committee on Children, Juveniles and Other Issues

September - Caylee's Law

Members heard a presentation from a representative of the West Virginia Prosecuting Attorney Institute regarding the prosecutor's perspective on Caylee's Law.

His experience was that it is hard to determine without having been in courtroom to tell what went wrong in



Interim Highlights

a trial. Having said that, CSI effect, or jurors wanting a smoking gun, and it didn't exist in Casey Anthony trial. The prosecutors relied upon software was in fact, unreliable which caused a circumstantial case. Also, it seemed as though the jurors didn't have adequate understanding of what was expected of them. Jurors wanted to know why, which is not an obligation in trial from the prosecution.

West Virginia is thinking of creating a failure to report statute and the representative stated it would be a good idea if the purpose were to prosecute people for that reason. This potential statute would not prevent any murders, however, it could add to charges that could be leveled against suspect.

The representative had several questions regarding a potential "Caylee's Law" adaptation in West Virginia and for which he would want the Legislature to consider. Who do you report this information to, added levels of bureaucracy, does DHHR fall under this statute? What if child dies in sleep? Must be written succinctly, what if 12 year old walking from mother's to grandparents house as part of custody, doesn't make it, miscommunication between parties, who gets blamed.

A non-report statute is a good idea but it would have to be crafted so that there are no, to limited unintended consequences. The Institute is not able, by Code, to write draft legislation or lobby for its enactment. There is also already a law on the books for failure to report and conceal a dead body as a result of criminal activity.

If the purpose for failing to report in to hide criminal activity the penalties for such should reflect that and be

more stringent than merely failing to report.

Next the committee heard from a representative for the Bureau for Children and Families regarding the Building Bridges program.

Building Bridges is a national initiative started in 2006 that is working to identify and promote practice and policy that will create strong and closely coordinated partnerships and collaborations between families, youth, community - and residentially - based treatment and service providers, advocates and policy makers to ensure that comprehensive mental health services and supports are available to improve the lives of young people and their families.

The mission of the Building Bridges Initiative is to identify and promote practice and policy initiatives that will create strong and closely coordinated partnerships and collaborations between families, youth, community- and residentially-based treatment and service providers, advocates and policymakers to ensure that comprehensive services and supports are family-driven, youth-guided, strength-based, culturally and linguistically competent, individualized, evidence and practice-informed, and consistent with the research on sustained positive outcomes.

Interim Meeting Schedule & Agendas
Please visit West Virginia Legislature's Web site: <http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>

Interim Committee Information
For information on all Interim Committees, please visit West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Joint" link.



October - Caylee’s Law

The committee heard details on draft legislation of a bill that would punish parents who fail to report a missing child within 24 hours.

“Caylee’s Law” in honor of Caylee Anthony would require “custodians” of children aged 11 and younger to report missing children within 12 hours of a disappearance. Children between 12 and 17 years old must be reported missing within 24 hours.

Several states, including Florida, Oklahoma, New York, North Carolina and Ohio have joined West Virginia in creating similar legislation.

The movement was sparked after Casey Anthony, Caylee’s mother, was found not guilty in the death of her daughter by a Florida jury. Prosecutors said Casey Anthony waited more than a month before reporting her child as missing.

The law defines a custodian as the person who is in charge of childcare at the time of the disappearance. That could include grandparents, friends, babysitters or neighbors.

Once the custodian realizes a child is missing, he or she must notify authorities. Law enforcement is not limited to 911 centers, under the draft legislation.

If custodians fail to report a child older than 11 missing, the guardian could face up to one year in prison and a fined up to \$500.

For children 11 and younger, the penalties are stiffer.

Custodians must report the child missing within 12 hours or be fined up to \$3,000 and face up to three years behind bars.

If a child who suffers from health or mental problems that increase the risk of substantial injury goes missing, age is not a factor in the law. Any failure to report the missing child within 24 hours could result in a \$3,000 fine and up to five years in prison.

The harshest punishment is reserved for custodians who do not report a missing child because they are involved in some kind of criminal activity. The draft legislation calls for up to 13 years behind bars for those offenders.

Some lawmakers wondered whether the exact 24-time frame could be determined in an exact fashion. The committee will continue to look at the bill. A final version could be presented next legislative session.

**Joint Commission
on Economic Development**

September - ARC Energy Report

Committee members heard from the Entrepreneurship Initiative Manager of the Appalachian Regional Commission (ARC) who discussed the 2009 ARC Energy Report.

ARC, according to their website, www.arc.gov, is a regional economic development agency that represents a partnership of federal, state, and local government. Established by an act of Congress in 1965, ARC is composed of the governors of the 13 Appalachian states



Interim Highlights

and a federal co-chair, who is appointed by the president. Local participation is provided through multi-county local development districts.

ARC funds projects that address the four goals identified in the Commission's strategic plan:

- Increase job opportunities and per capita income in Appalachia to reach parity with the nation.
- Strengthen the capacity of the people of Appalachia to compete in the global economy.
- Develop and improve Appalachia's infrastructure to make the Region economically competitive.
- Build the Appalachian Development Highway System to reduce Appalachia's isolation.

ARC serves a total of 420 counties with a population total of 25 million. ARC has 73 local development offices throughout these 13 states but try to focus on most economically distressed counties.

ARC's interest in Appalachia's rich energy resources is the creation of new jobs. The commission began in 2006 and has provided grant support of \$20 million in 177 projects. Also created was education and training for 5,300 trainees and students.

The 2009 Energy Efficiency study showed that eight percent of the country's population is located in Appalachia. It also shows that Appalachia has 35 percent of the coal output, 15 percent of total electrical output, 66 percent of the nation's miners, and spends more on residential and commercial uses.

The study also showed that Energy Efficiency (EE)

investments could:

- Create 77,000 new jobs
- Cut energy use by 24 percent
- Result in energy savings of \$21 billion

One example of strategies is the adoption of 2006 International Energy Conservation Code, or IECC, and more efficient codes every three years thereafter when building residential properties. Homes built from 2016-2019 use 30 per net less energy.

The Manager told the committee that economic and job impacts of energy resources in Appalachia are large. For every \$1 million of investment natural gas and electricity create 3.7 to 5.3 jobs.

There are a number of programs energy outlet projects throughout Appalachia including the HomeSMART Energy Audit/Retrofit Program that can help you identify areas in you home that may be wasting valuable energy by providing a free in-home energy audit. The program is through Appalachian Power and, according to their website, the program is available to all owner occupied, single-family residential detached home customers, including mobile homes and duplex, or single-family non-owner occupied residential detached homes where the electrical service is in the occupants name and with written consent of the owner. Townhomes and commercial customers are not eligible. Homes do not have to be all electric to qualify. However, your home must be all electric in order to qualify for a rebate. Homes that are not all electric can receive an audit, but they do not qualify for a rebate if additional measures are installed. Further information on this program can be found at <https://www.appalachianpower.com/save/programs/HomeEnergyAudit.aspx>.



Also to address the committee was the Director of the West Virginia Division of Energy who provided members with an overview of West Virginia’s energy resources.

The Director told the committee that:

- Two-thirds of the state’s electricity is exported and is the second largest state with net output of electricity.
- Under phase 1 of the Clean Air Act, West Virginia coal has lost \$20 million in coal reduction. The impact of the Clean Air Act will result in the closing of six power plants. The Clean Air Act has provided incentive to do energy efficiency because it is the economic thing to do.
- State Government Buildings 5,6, and 7 are replacing windows for more energy efficient ones to cut energy costs.
- Huttonsville Penitentiary has will begin running their boilers on natural gas to save \$400,000 a year. The boilers originally ran on oil. The natural gas pipeline to convert the boilers was funded by stimulus money.
- \$9 million has been spent on improvements to city halls and county courthouses throughout West Virginia.

The Director told the committee that all of these changes would move West Virginia forward in becoming energy efficient.

October - Current Economic Updates

The State Commerce Secretary told legislators that he believes corporations looking at building billion-dollar ethane cracker plants in the Marcellus Shale gas field are ready to pick some sites.

There are more sites being considered in West Virginia than in other Marcellus states, he said. He did however give caution, noting that competition from other states is strong.

Landing one or more of the plants, which convert ethane in natural gas into ethylene, a key building block for chemical and plastics production, would bring a “seismic shift” to the state’s economy, he said.

He said he believes decisions will be made on where to locate one and possibly two of the plants before the end of the year.

He said a key selling point for West Virginia is the relative stability of the state’s economy.

He mentioned that he could tell businesses our state budget is balanced and that we are cutting taxes while many other states are contemplating decisions to raise taxes.

The Secretary said he has been gearing up efforts to market the state to potential business investors, including spending \$500,000 this summer to be a sponsor of The Greenbrier Classic golf tournament.

During the three-day event, the department hosted representatives of a wide variety of businesses and industries, and from locations including Germany, Spain, Thailand and Japan at The Greenbrier resort.

The Secretary described it as a “raging success” and said the department is still working business leads that they obtained from that department.



He noted that one employee told him he made more progress in three days of face-to-face interaction at the event than he could have in years of calling businesses.

The Secretary concluded by saying that his department is always looking at creative ways to get a face-to-face audience in front of national and regional business decision makers.

Legislative Oversight Commission on Education Accountability

September - HEPC REPORT

Committee members heard from the HEPC Chancellor on the West Virginia University Institute of Technology Revitalization Project during one of LOCEA’s interim meetings.

Passed during this year’s regular session was Senate Bill 486, which created the WVU-Tech Revitalization Project. The project, as passed in the bill, includes research on methods of institutional renewal, a plan for implementation of recommendations, development of a renewal model that may be replicated at other state institutions of higher education, and reports to the Legislature detailing use of resources, together with any recommendations for alterations in the Project’s goals or institutional governance structure. Regional and national experts were appointed to serve on the revitalization team in July.

The Chancellor also handed out a report that contained information on a number of issues including, an overview of HEPC’s funding formula, reports on for-profit

institutions and a strategic state plan for science and technology research, and the development of services and facilities for student veterans.

Funding Formula

According to the report on HEPC’s funding formula, HEPC is required under 18-1B-4(2) of the West Virginia Code to “Develop, oversee and advance a financing policy for higher education in West Virginia. They are to:

- Provide an adequate level of education and general funding for institutions
- Maintain institutional assets
- Invest and provide incentives for achieving the priority goals in the public policy agenda
- Incorporate the plan for strategic funding to strengthen capacity for support of community and technical college education

Drivers of the proposed funding mode is adjusted enrollment, performance incentive, and peer equity.

The report lays out HEPC’s four funding elements. The first listed is access and retention, which takes adjusted student credit hours multiplied by HEPC average cost per credit hour. The second is graduate production, which takes the number of graduates in excess of five year average multiplied by 50 percent of SREB average appropriation of each student. The third is access for adults, which takes the number of adults in excess of five year average multiplied by 33 percent of SREB average appropriation per student. Lastly is completion, which takes percentage points above 70 percent course completion multiplied by 100 percent of SREB average appropriation and tuition per student.



Incentive based funding, as stated in the report, reflects HEPC’s role to develop a financing plan that meets state policy goals. As such, the three policy priorities regarding incentive based funding are:

1. Graduate production-Focus on the number of degrees produced rather than a graduation rate eliminates any incentive to make the admissions process more selective.
2. Access for adults-Should encourage institutions to seek alternative delivery methods and use tools such as RBA today to increase participation.
3. Completion-Should encourage institutions to implement programs to improve time to degree, advising, mentoring, etc.

For-Profit Institutions

Included in the report is a brief section regarding for-profit institutions and how they are not authorized to operate an institution of higher education in the state or to confer degrees to West Virginia residents through distance learning. One case of this is the University of Phoenix who had placed a campus listing in West Virginia.

Science and Technology Research

The Science and Research Council adopted Vision 2015 as the state’s science and technology research plan until a new plan is developed and adopted. The Council was created in 2009 in order to increase the capacity of the state and higher education institutions to attract, implement, and use cutting edge competitive research fund and infrastructure. It was also created to provide expertise and policy guidance in science and research to the state. Approval of regional meetings to seek comment on the Vision 2015 plan, assess its current level of achievement,

and make recommendations for new goals and objectives to be considered by the Council occurred during the June 16 meeting. Detailed assessments of Vision 2015’s fifteen other goals are currently underway and will be reported on later in the year.

Veteran Student Services

Some of the initiatives for veteran students services listed in the HEPC’s report are:

- Continued Commission and Council support of the Veterans Learner Task Force
- Visiting every college and university in the state for supervisory reviews and consultations
- Participating in national and regional meetings about the new GI Bill
- Attending Congressional hearings on improvements to the new GI Bill
- Exploring development of an Institute for Veterans Education and Training Success to provide professional training and support to campus-based staff working with student veterans.

CCTCE Middle-Skills Jobs Report

Committee members also heard from the Chancellor of WV CCTCE regarding the middle-skills jobs report.

Middle-Skill jobs are those requiring more than a high school diploma but less than a four-year degree and employers have indicated that these jobs are on the “hardest to fill” list. Middle-skill jobs comprise nearly 50 percent of U.S. jobs and will account for 44 percent of job openings over the next decade.

Categories of these jobs are information technology, manufacturing and allied health. Providers of middle-



skill jobs education and training include community and technical colleges, apprenticeship programs, career-tech centers, private providers, employers and community-based agencies.

Even though middle-skill jobs account for 54 percent of West Virginia’s labor market, only 45 percent of the state’s workers are currently trained to the middle-skill level. Strategies in helping to close this gap includes:

- Setting bold training goals for middle-skill jobs
- Change the perception of these job with message “Smart choice, not second choice”
- Target training dollars toward high-demand jobs
- Collect and analyze data on middle-skill jobs
- Convene regional sector-based industry leaders to develop strategies to address demand
- Develop career-pathways for adults.

October - WVU-Tech Revitalization Report

Committee members received the Higher Education Policy Commission’s (HEPC) 37-page report on the revitalization project of WVU-Tech during their first interim meeting of October.

During this year’s regular session, the Legislature passed Senate Bill 486 which instructed the HEPC to create a revitalization project for WVU-Tech in order for it to return to an institution of high quality and high retention numbers of students. The legislation required the HEPC to establish a team to study the needs and potential remedies for WVU-Tech. Those assembled to the team have more than 230 years of higher education experience. They were told to investigate the following at WVU-Tech:

- Administration and Governance
- Academics
- Athletics
- Student Services
- Finances and Human Resources
- Facilities
- Capital Improvement
- Strategic Plan

The team members were also instructed to consider several recommendations drawn from the Consortium on Undergraduate Research and Engineering (WV-CURE) report.

The team visited WVU-Tech’s campus from July 25-28, 2011 and met with faculty, administration, students, alumni, members of the community, and a number of other individuals linked to WVU-Tech. More than 35 meetings were held during the visit to the institution.

Before going into the report’s findings, the HEPC Chancellor told the committee that the report is candid and, if the report is accepted as a whole by the legislature, will give WVU-Tech a bright future. The Chancellor also told the committee that this matter is of great importance in order to ensure that WVU-Tech has a future.

Governance

The report finds that, with regards to governance, WVU-Tech has neither the enrollment nor the financial base to warrant independent status from WVU. Last year alone, WVU-Tech received funds from WVU in order to make payroll. Also lacking with regards to governance was the absence of fully compatible systems that have limited the capacity of some personnel to serve well



incoming and returning students. Another major issue is the degree to which WVU-Tech can or should maintain a separate identity from WVU. With their brand unclear as to where they stand, WVU-Tech cannot effectively recruit students and raise funds. A clearer definition of the role of the Campus Provost is also needed. Currently the Campus Provost is not included as a participant in the meetings of public college and university presidents. Recommendations with regards to governance and administration include:

- Greater clarification of the role and responsibilities of the WVU-Tech chief executive that leads to a common understanding on both WVU-Tech's campus as well as WVU's.
- Greater operational autonomy for WVU-Tech and an enhanced stature for the campus provost position
- WVU and WVU-Tech work to identify where student information systems and similar IT systems are either not compatible or not fully available to WVU-Tech staff.
- Encourage and allow WVU-Tech to develop and maintain its own identity in athletics, marketing, outreach, alumni, and community relations

Academics

WVU-Tech is organized into two colleges: the College of Business, Humanities, and Social Sciences and the Leonard C. Nelson College of Engineering and Sciences. There is also a department of Nursing. The 35 academic programs at the institutions are seen as solid and conventional but many suffer from outdated facilities and some safety issues in the labs. Nearly all have inadequate enrollment numbers as well.

When discussing academics, team members believe that WVU-Tech needs programs that distinguish themselves from those at other institutions. Reinstating co-op and internship programs, as required program elements will provide a feature that will attract students to the institution as they did in the past.

Fixing the institution's presence online will also attract prospective students, according to the report. The team believes that the current website could and should be revised significantly in order to attract these prospective students.

Another recommendation is the creation of a teacher education program for new teachers. Other recommendations include:

- The Nursing program accreditation status be prominently displayed on website
- Engineering and Engineering Technology objectives revised in order to make them more attractive to prospective students and employers
- WVU resources be made available to assist WVU-Tech in resolving immigration and work visa issues in order to facilitate the employment of qualified professional individuals for WVU-Tech.
- Install a highly secure wireless computer network that links all campus buildings.
- Reinstated publication of its catalog, more specifically an online catalog.
- Recommendations regarding the library were also mentioned including:
 - Reasonable book acquisition budget be restored to WVU-Tech library
 - WVU-Tech, WVU, and the HEPC work together to

clarify with appropriate data base vendors to ensure that all recognize the same status of the campus with regard to electronic databases and similar items.

Student Services

The team encountered a number of challenges with regards to student services including the fact that two residence halls are off-line. Other challenges include lack of activities for students, disagreement between faculty and students as to who should advise incoming freshmen, lack of a comprehensive student orientation or freshmen year experience are in place, decline in intramural offerings, and no personal counselors available to students on campus.

Recommendations in the report include:

- Implement the Retention Proposal of July 18,2011 which emphasizes the importance of developing and delivering a comprehensive student orientation program by the fall of 2012.
- Seek tuition waivers for out-of-state and international students from traditionally underrepresented groups in STEM fields
- Create a Minority Engineering Program and Society of Women Engineers in order to attract more students
- Develop a place where students can congregate on campus
- Advertise online and in recruiting literature, Montgomery's proximity to outdoor recreational opportunities that are among the best in the country.

Athletics

The report makes many recommendations when it

comes to athletics including pursuing membership in the West Virginia Intercollegiate Athletic Conference and NCAA Division II. It also recommends that WVU-Tech eliminate the intercollegiate football program due to the fact that the institution cannot afford or sustain the program.

Other recommendations regarding athletics includes:

- Examination of cost of scholarships given to athletic program
- Replace astroturf of Martin Field with field turf due to safety concerns
- Expand Martin Field to allow soccer to be played there
- Transfer intramurals to student affairs
- Determine the cost benefit of sustaining intercollegiate athletics at its current level.
- Expand campus recreation opportunities through new construction or the renovation and expansion of current space.

Finances

The report states that if a heady three to five year action plan is implemented immediately, there will be no distant future for WVU-Tech. The plan needs to be accompanied by a \$5 million-\$7million infusion in each of the next five years.

Enrollment management needs to be a priority and student enrollment must dramatically increase quickly. Expenditures that are oriented toward new and retained students should have priority. Another priority must be residence and student life in order to attract more students. To look more appealing, the residence halls need to be fixed in order to make comfortable their 455-student capacity.



Stressed under the recommendations was the elimination of the football program, which is found to be a barrier to its financial stability. The elimination of the program would provide immediate financial benefits.

Other Recommendations

The report outlines a number of other recommendations including:

- Adding curb appeal to the institution through paving, painting and planting flowers
- Building automation systems need to be standardize into one system
- Install campus wide Wi-Fi
- Identify goals for each year, including timelines and benchmarks

The report states that WVU-Tech’s most pressing need is enrollment growth and recruiting new students and retaining them are of most importance.

The committee members voted to accept the report and will review it further during November’s meeting.

Education Subcommittee A

September - Technology

This committee dealt with HCR 133 – Requesting the Joint Committee on Government and Finance to conduct a study on the acquisition of pre-owned computers for refurbishing for use by students in need.

A representative from One Economy Corporation spoke to the committee. Their mission is to ensure that every person, regardless of income and location can maximize

the power of technology to improve the quality of his or her life and enter the economic mainstream.

One Economy has had a relationship with the state since 2007 and has helped in the support of many technological initiatives in West Virginia.

The representative told the committee that creating demand is the main factor that drives internet access and that to create demand hardware has to be in people’s homes.

Representatives from Mission West Virginia and Alliance of West Virginia Champion Communities also pledge to help in any efforts to distribute computers into West Virginia homes to create the demand necessary for affordable Internet access.

October - Poor Attendance

The Assistant Superintendent of Cabell County Schools informed committee members of the strategies Cabell County is taking in order to improve school attendance and also reducing the dropout rate during October’s interim meeting.

The Assistant Superintendent told the committee that Cabell County’s secondary schools and career tech center was designated Innovation Zones which provides grant money to these schools in order to enhance students’ learning experience.

Through the School Innovation Zones Act, passed by the West Virginia Legislature in 2009, schools were given an opportunity to apply for a funding grant that



Interim Highlights

would support the schools' abilities to use creative and innovative ways to improve student learning. The focus with this is giving schools permission for exceptions to county and state board rules that do not allow creative and innovative programs that enhance student learning. These schools provide a testing ground for new learning ideas and how these ideas are implemented and received by students in order to make possible school policy changes throughout all West Virginia schools.

The Assistant Superintendent told the committee that being an innovation zone allowed Cabell County schools to create a comprehensive school redesign plan and looked at various options and ideas in order to individualize each student's educational experience.

A summary was provided of Cabell County's innovation zone plan, strategies, and options provided to the county's students. There are a number of student-focused components to this plan. Some of those include; career and interest academies, early graduation, extended learning opportunities, compulsory age of attendance, teacher collaboration time and a comprehensive new teach induction.

The career and interest academies component allows for the personalization of each student's curriculum. Each of Cabell County's schools has developed academies based on every student's interests that mix with 21st century post-secondary education and employment opportunities. Academies currently offered include Fine Arts, Health Services, Child Development, Innovation/Engineering, Construction, Civil Service and Marketing and Business. There are also a number of other academies under development including Pro-Start, Hospitality,

JROTC, and Sports Management.

Students wanting to graduate early are given the opportunity to do so through Cabell County's Early Graduation component. A waiver has been granted to the innovation zone for those highly motivated students who want to graduate early. Procedures are in place for these students that includes requiring them to have a post-secondary plan in place. This school year, six students have opted to graduate early.

The extended learning opportunities component allows students to earn credit for learning that takes place outside of the classroom and traditional school day. Students are able to customize their curriculum while also meeting West Virginia's content standards and objectives for courses are learned.

A waiver was also granted to the innovation zone to increase the mandatory age of school attendance from 17 to 18. The GED option is one that reluctant students may opt for as a means toward graduation. This option allows students to gain their high school diploma and, since CTE enrollment is required along with this option, students will graduate with real-world marketable skills.

The teacher collaboration time component provides teachers with meaningful, regular collaboration time embedded within their day. Each school's leadership team develops and delivers staff development in order to increase the utilization of engaging instructional strategies and support the implementation of the school-wide literacy program.

New teachers also receive significant amounts of



support to learn the art and science of teaching through the comprehensive new teacher induction. It addresses a variety of engaging instructional and management strategies new teachers need to know in order to be successful in the classroom quickly.

Representatives with the West Virginia Department of Education (WVDE) provided further information to the committee on dropout prevention innovation zones.

This year's legislative appropriation to the innovation zones was \$2.2 million. In order to receive grant money, the WVDE application guidelines require applicants to submit a three-year budget proposal.

The purpose of this funding is to:

- Increase graduation rates and reduce the dropout rate
- Provide schools and communities with opportunities for greater collaboration to plan and implement systemic approaches that include evidence-based solutions
- Provide a testing ground for innovative graduation programs, incentives and approaches
- Provide information on the effects of specific innovations, collaborations and policies on dropout prevention and recovery
- Document educational strategies that increase graduation rates.

One WVDE representative told the committee that Policy 3236 was revised in July of this year in order to reflect the new Dropout Prevention IZ's. She also told the committee that a community engagement forum was held in August. At this forum came businesses, military

and other prospective opportunities for students. Each of these registered to work in their local communities to work with schools in order to improve graduation rates. Currently 21 counties have been trained to bring in local businesses to work with schools.

Education Subcommittee B

September - WESTEST 2

A representative with the West Virginia Department of Education (DOE) addressed committee members regarding the use of the results of the statewide summative assessment, also known as the WESTEST 2, during the committee's interim meeting.

The results of WESTEST 2 will be used to analyze student progress, how the results will be used at the school level and the requirements for implementing a growth model. The results will also be used for potential requests for waivers of certain requirements through the No Child Left Behind Act, and also West Virginia's participation as a governing state in the SMARTER Balanced Assessment Consortium (SBAC).

The DOE is providing help to schools in order to use the information from the WESTEST 2 as a springboard for discussion as to what needs to be improved upon in order to succeed.

Also discussed was SBAC that will create state-of-the-art adaptive online exams, using open source technology. According to the DOE's website, the online system will provide accurate assessment information to teachers and others on the progress of all students, including those



with disabilities, English language learners and low- and high-performing students.

Throughout the year, students will have the option to take formative exams, which provide guidance to teachers about instructional milestones. These formative tests and multiple opportunities to take what are traditionally year-end summative exams will move the testing process away from the traditional one-size-fits-all state exams. The goal is for students who score well on specific learning standards earlier in the school year not to be tested on those standards later on an end-of-the-year test because they have already demonstrated proficiency.

With regards to waivers, many states are holding off on applying for them until the federal guidance comes out. The DOE will continue to explore what is going on with current and future waivers and once more information is released they will update the committee further.

Education Subcommittee C

October - HCR 45

Committee members heard from a number of speakers regarding the barriers facing deaf or hard of hearing children in school during October’s meeting.

One of Education Subcommittee C’s study items was HCR 45, adopted during the 2011 regular session, which requested the Joint Committee on Government and Finance to conduct a study on the educational and communication barriers facing children in West Virginia who are deaf or hard of hearing and their families, and

on the adequacy and enforcement of current laws that address these barriers.

First to address the committee was a Kanawha County parent of a deaf student. The parent told the committee that her daughter has so many more barriers and hurdles to go through even when it comes to attending school. Although her daughter lives very close to South Charleston High School, the parent told committee members that she has a 4-hour a day bus ride to Capitol High School because South Charleston High School does not have interpreters. The reason explained to these families is that Kanawha County doesn’t have enough interpreters, so the deaf and hard of hearing students are sent to one of three schools in the county. The daughter of the parent addressed the committee to explain to them that she feels that she isn’t receiving a quality education due to the current situations. The family is looking to have an interpreter assigned to South Charleston High School since a number of students are in the same situation as this family.

The Secretary of the West Virginia Association of the Deaf told the committee that she went to school in Calhoun County and had nothing to help her in learning to sign or understand what was being taught in class. In 4th Grade, she was fitted for hearing aids without being told what they would help her with so she refused to wear them. After she graduating high school, she attended a rehabilitation center where she was around other deaf students. This is where she was taught to sign. After graduating from the center she worked as a clerk and then went to West Virginia State University where she received her degree in counseling. She also has a daughter who is deaf and she informed the committee that she made



sure that her daughter was given a proper education so that her daughter didn't have to go through the same experiences that she had to go through in school.

The daughter of the Secretary also addressed the committee. She is the therapeutic consultant for the Jackson County Development Center. She stated that there is a lack of qualified interpreters for deaf and hard of hearing children in West Virginia. She also told of her experiences with some of her interpreters in school who were not well qualified. The daughter is now pushing for a test to be given to interpreters before they enter schools.

Finance Subcommittee A

October - Matching Advertising Partnership Program

Lawmakers heard a report on the state's Matching Advertising Partnership Program, or MAPP during the October interim meeting of the Finance Subcommittee A. The program provides matching funds for direct advertising projects done by tourism destinations and their partners

Representatives of the Division of Tourism told the committee the program, which provides funding for advertising in various media forms, such as newspapers, magazines, television, radio, Internet media, and billboards, has run a deficit for three years straight

In fiscal year 2010 the MAP program took in \$9.6 million, issued \$8.7 million in grants, and transferred out \$3.7 million to the West Virginia Courtesy Patrol. Total expenditures for MAPP were \$12 million with a deficit

of \$2.8 million. In fiscal year 2011 MAPP took in \$9.2 million, issued \$9.5 million in grants, and transferred out \$3.7 million to the Courtesy Patrol. Total expenditures for MAPP were \$13 million with a deficit of \$3.9 million.

With the first half of fiscal year 2012 nearly over, MAPP is already running a deficit of \$311,411. MAPP has taken in \$2.6 million so far, issued \$1.4 million in grants, and transferred \$1.5 million to the Courtesy Patrol.

The MAP program gets its funding from Racetrack Video Lottery. According to the West Virginia Lottery, Racetrack Video Lottery has provided \$162 million in revenue for MAPP since 1994.

Racetrack video lottery revenues are down 6 percent from last year and down \$22 million from projections, totaling \$258 million for the year. Racetrack Video Lottery revenue comes from the state's four racetracks: Mardi Gras in Cross Lanes, Wheeling Island in Wheeling, Mountaineer Casino in Chester, and Hollywood Casino in Charles Town. The downward trend is due to out-of-state competition by racetracks and casinos in border states, such as Pennsylvania.

Finance Subcommittee B

September - Taxes

The Deputy Cabinet Secretary of the Department of Revenue provided information regarding the feasibility of a single sales and use tax on telecommunications in West Virginia. Presently, the state has a variety of services and companies along with a variety of taxes both local and state. The move to a single tax system to be employed



statewide will ease the administration of tax collections and provide the same tax set up in every community.

West Virginia would be replacing a maze of state and local taxes and fees on phone services with a flat 6 percent telecommunications tax. The Deputy Revenue Secretary said the drive for this change is “simplicity.” The recommendation comes from a study of telecommunications taxes and fees for the past year.

Telecommunications laws date back to 1934, when telephone service was a monopoly, and include a variety of state, county and municipal taxes and fees that vary from locality to locality, and for wired and wireless phone services. Today companies offer the same services but may operate by a different set of rules.

According to findings in the study, currently the tax/fee rates vary from as little as an average of 0.8 percent for traditional long distance services, to an average of 6.3 percent for wireless services. Wireless plans account for about 35 percent of all phone service in the state, but pay about 58 percent of all telecommunications taxes and fees, he said.

Likewise, 911 service fees in the state are among the highest in the country, ranging from 98 cents to \$6.40 a month for landline services, and \$3 a month for residential wireless services.

Most neighboring states have flat 911 fees for both wired and wireless service, ranging from 60 cents a month in North Carolina to \$1 a month in Maryland, the Secretary told lawmakers.

Complicating matters is that the telecommunications industry is undergoing rapid change; he said Landlines are disappearing, going from 1 million lines down to about 700,000. There’s also a blurring of lines between providers, with telephone, Internet, cable and satellite TV providers offering multiple services through bundled packages, he said.

That provides additional complications since under federal law; satellite TV providers are exempt from local taxes.

A flat 6 percent tax would bring in about the same overall revenue -- about \$57 million total for state, counties and municipalities -- but would be much simpler to collect and distribute.

October - Marcellus Shale Gas and Taxes

Members of this subcommittee heard a report in October from the Marshall Center for Business and Economic Research (CBER) regarding “The Importance of Marcellus Shale Gas to West Virginia”.

The report states that the development of Marcellus Shale natural gas promises to be an economic boon to the State’s economy. A recent study estimated a generation of 7,600 jobs and \$2.35 billion in business volume with \$14 million in taxes.

Using three different potential growth paths, the same growth path as in past years, five percent faster growth and 20 percent faster growth, the results (which CBER considers conservative) were spectacular. Looking forward to 2015, even if growth remains steady, 6,600



Interim Highlights

new jobs will be created. A five percent and 20 percent increase in development would increase new employment to 8,800 and 19,600, respectively.

The purpose of this study though was to compare the taxes levied on natural gas production in West Virginia with other producing states. In selecting the states for the study, they began with those surrounding West Virginia, as most have at least some natural gas production and most will participate either to a greater or lesser degree in extracting Marcellus Shale. These states included Kentucky, Maryland, Ohio, Pennsylvania and Virginia. The top 10 states in natural gas production were then investigated as they had the most experience with natural gas taxation. These states include Alabama, Alaska, Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, Texas, Utah and Wyoming.

The taxes investigated used for the purpose of this study were real property taxes, personal property taxes, severance or production taxes, corporation income taxes, sales and use taxes and permits, bonds and other environmental taxes or fees. Unemployment taxes, workers compensation premiums and other special levies were not included. At the outset it should be noted that 11 of the states, including West Virginia, apply all six of the taxes to natural gas.

In conclusion the study found that West Virginia places more taxes and fees on natural gas production than most of the other states that were studied. From the information now available, it is not possible to determine if the burdens of these taxes are creating a barrier to the development of Marcellus Shale in the state. But West Virginia is in competition with nearby states

that hold Marcellus Shale for exploration, drilling and manufacturing. There are many factors that determine location, but, holding other things equal, state and local taxes will be an influential factor.

Considering surrounding states' real and personal property taxes, West Virginia's taxes appear to be high, particularly in those states where personal property is exempted. Since the severance tax is not tiered, it is larger than the tax imposed in Ohio, Kentucky and Virginia. And while Pennsylvania and Maryland do not have severance taxes at this time, discussions are underway in the former.

Many firms in the natural gas industry are organized as exempt from the corporate income tax. Only Pennsylvania has a higher rate as of this date; that gap will increase as the West Virginia tax is scheduled to diminish. While sales and use taxes on business services and other inputs were unable to be fully investigated, West Virginia does exempt some, but not all, business-to-business transactions.

Regarding environmental fees including licenses and drilling permits, Kentucky and Pennsylvania have no separate environmental fees to permits and bonds. Maryland does have high bonding requirements, but there is very little drilling activity presently transpiring in that state.

Overall, West Virginia appears to have one of the highest tax burdens on natural gas compared to the five surrounding states. Further investigation could provide.

Interim Meeting Schedule & Agendas
Please visit West Virginia Legislature's Web site:
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>

Finance Subcommittee C

September - Medicare Drug Reimbursement

The Director of Public Employees Insurance Agency (PEIA) told committee members that a new wrinkle in covering the costs of prescription drugs could save PEIA \$10 million in the next fiscal year.

A new innovations known as the “Employer Group Waiver Plan Wrapped Product” is new and innovative and PEIA is the first employer group to implement this, the Director told committee members.

The way it works is that since a 50 percent decrease is allowed in the doughnut hole, PEIA is requiring members to pay 100 percent of the costs up front. That way they get a point-of-sale 50 percent reductions, and PEIA overlays and insurance product on top of that to pay the retirees down to their co-pay.

PEIA struck a deal in which many pharmacies agreed on specified brand-name drugs to cover 50 percent of the cost in the doughnut hole.

The Director told the committee that PEIA has a maximum, out-of-pocket cost of \$1,750 on drugs, and that none of PEIA’s retirees technically hit the doughnut hole. Those who got in the doughnut hole got a refund check of \$250. Instead now, the change is invisible to the client or member when they go into the pharmacy all while reducing costs now and also lower our trend curve, the Director said.

Forest Management Review Commission

September - Cooper’s Rock State Forest Management

Members of this commission met in September to discuss House Concurrent Resolution 120, which requests a study on whether or not to transfer responsibility of Cooper’s Rock State Forest from the Division of Forestry to the Division of Natural Resources.

The resolution also asks about studying whether or not to prohibit the sale of timber in all of or part of Cooper’s Rock State Forest

All West Virginia state forests are managed by and under the jurisdiction of the Division of Forestry, except for Kanawha State Forest. Kanawha State Forest is managed by and under the jurisdiction of the Division of Natural Resources and sale of timber from Kanawha State Forest is prohibited.

Currently, timbering is allowed in Copper’s Rock State Park and recently Allegheny Wood Products won a bid to timber 177 acres in Coopers Rock State Forest. The company submitted the winning bid of \$231,963.10 in a recent auction and must deplete the timber before the two-year contract ends.

However, there are also environmental concerns when it comes to timbering in that park. For instance, it has been reported that the plans by the state Division of Forestry to log a 210-acre tract in Coopers Rock State Forest drew fire from area environmental groups, who maintain that the timber harvest would harm rare snail and bat species.

Interim Meeting Schedule & Agendas

Please visit West Virginia Legislature’s Web site:
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>



The state forest is known to contain populations of the Cheat threetooth snail, known officially as the flat-spined three-toothed snail, considered by the U.S. Fish and Wildlife Service to be one of the world’s rarest land snails.

The snail species, first identified in 1933, is found only in a section of the Cheat River Gorge, where it lives in cracks and crevices in sandstone cliffs and outcroppings and in nearby leaf litter. It is listed as a threatened species under the terms of the federal Endangered Species Act

The committee will continue to discuss this issue in the coming months along with the Parks, Recreation and Natural Resources Subcommittee, which also discussed this issue this month.

Joint Meeting - Joint Committee on Government Operations & Joint Standing Committee on Government Organization

September - PERD Reports

Members of this Joint Committee heard several Performance Evaluation and Research Division (PERD) reports.

First, an evaluation was conducted on the West Virginia Division of Air Quality (DAQ) within The Department of Environmental Protection. The DAQ’s mission is to protect and improve today’s air quality and preserve it for future generations. The DAQ adheres to its mission by collecting criteria pollutant data at operating air monitoring sites and administering a management

program for major and non-major facilities to protect the health and welfare of the public and the environment. The following issues were found during the review and were

The DAQ listed good performance goals and measures that are outputs of processes that lead to the ultimate outcome of good air quality. However, air quality indexes for the state are performance measures not provided in the Executive Budget Operating Details. This is something that could easily be corrected.

The DAQ could utilize the annual air quality data to document the change in the number of good air quality days from the previous year. It is also of benefit to utilize the benchmark created by the EPA to address the issue of how the DAQ is performing and if it is providing a measurable benefit to the citizens of the state.

Also, the DAQ website is well designed and easy to navigate but could use modest improvements to increase citizen engagement. The DAQ website allows for interaction but could use modest improvements to increase its transparency to the public. Currently the DAQ’s performance measures are not listed within the website. In order to promote transparency, the DAQ should provide public access to its performance measures via the DAQ website.

The next report was the regulatory board review of the West Virginia Board of Physical Therapy. The Legislative Auditor found that the Board is in compliance with the general provisions of Chapter 30. However, the Board can make improvements in its operations by adopting recommendations made by the Legislative Auditor



in addition to promulgating rules in accordance with Code.

The recommendation include: The Board should request that the Legislature consider granting it the authority to conduct federal criminal background checks on applicants seeking licensure; the Board should consider revising its licensure application to allow licensees to list relevant information concerning their continuing education, such as course titles, provider and completion dates; the Board should promulgate procedural rules that govern the notice of meetings rule as required by Code §6-9A-3; the Board should carefully monitor its financial condition in order to maintain cash reserves equivalent to or greater than its yearly expenditures; and, the Board should consider conducting state criminal background checks on licensure applicants until it receives authorization to conduct federal criminal background checks.

Committee members also were told about a legislative audit that stated around \$150,000 in unemployment benefits were paid over the last three years on behalf of claimants who were either in prison or jail.

Workforce West Virginia checked the Social Security numbers of all inmates during that time period. The agency found it had paid 700 weeks worth of benefits on behalf of at least 26 inmates. In one case, the benefits ran for a total of two and a half years. The report by the auditors stated that some claims could have been filed not by inmates, but by family members. WorkForce West Virginia’s fraud unit will continues to investigate and report back to the Legislature with its findings.

October - WV Lottery Commission

The Legislative Auditor conducted an expenditure analysis, and examined the Lottery Commission’s performance measures and transparency. Overall, the Legislative Auditor finds that the Lottery is prudent in its financial responsibilities; however advertising and instant prize payout expenditures can be reduced to maximize revenue to the State and modest improvements in transparency can be made. Recommendations were provide to the committee by the Legislative Auditor’s office.

First, regarding the advertising, the report stated that the Lottery’s advertising budget has been reduced over the last few years, but it is still significantly higher than comparably sized lottery states. Also, the Lottery’s advertising is over \$4 million higher than similar sized lottery states. According to the Lottery, the cost structure (hourly rate) of its advertising contract is the primary reason for higher advertising costs. The Lottery will be going to a percentage-based contract next year that should reduce advertising costs.

Regarding prize payouts, the Lottery has stimulated instant ticket sales by gradually raising the prize payout rate over the last 20 years. Statistically, the instant prize payout rate near 68 percent is beyond the optimal percentage by a few percentage points. Gradually lowering the instant prize payout to around 65 percent would increase revenue to the State by a few million annually.

Regarding transparency, with the Lottery now administering several different types of lotteries, it should provide more disaggregated data by lottery type, including actual administrative expenses, allowable



administrative costs, and gross profit after actual administrative expenses. The Lottery should add to its listed performance measures the amounts for total gross lottery profit after administrative expenses, and the total amount distributed to the State. Performance measures should also be developed for each major lottery type.

Government Organization Subcommittee A

September - WV State Fireman’s Association

The President of the West Virginia State Firemen’s Association (WVSFA) presented the committee with statistics showing the value of volunteer fire departments to West Virginia.

There are currently 410 volunteer fire departments in West Virginia. They provide fire protection 24 hours a day, 365 days a year. That equates to over 3.5 million man-hours per year. Using a \$15.02 hour wage calculation and accounting for a minimum of four firefighters manning an engine at all times (National Fire Protection Association standard) these volunteer departments save the taxpayer over \$215 million per year. These figures do not take into account the savings on homeowner’s insurance premiums or the value of lives saved.

These numbers presented by the President were somewhat conservative. In fact, he went on to note that if you take the estimated 10,000 volunteer firemen in the state and assume a 40 hour work week at \$15.02 per hour, that would equate to paying just over \$415.5 million in wages and benefits.

These total costs are simply for man hours and do not include the exorbitant costs of a fire truck, fuel, insurance, station utilities and the various other costs for necessary gear for firefighters.

The President went on to mention the importance of recruitment and retention. Nationally, the number of firefighters in communities of 2,500 or less under the age of 40 has declined by 85,000 since 1987. They have been replaced by about 45,000 firefighters over the age of 45. Of these, all but 5,000 are over the age of 50.

The President contended that training is the key factor in recruiting and retaining firefighters.

The Association’s ideal 2012 legislative agenda would include a permanent solution for the worker’s compensation issue, retention and recruitment initiatives, legislative oversight of fire fighter and rescue training, as well as placing all firefighter and rescue training under WVU and the Community and Technical Colleges—removing it from RESAs.

The WVSFA also believes any reconsideration of previous initiatives, free training for volunteers and increased support for the West Virginia State Fire Academy at West could help.

October - Speech Pathology and Audiology

The Board of Examiners for Speech-Language Pathology and Audiology wants to revisit a bill passed in 1992 that exempts audiologists and speech language pathology specialists working in public schools from licensing requirements.



Interim Highlights

A speech language pathologist and member of the examiners board, told the committee that this is the proper time to look at the rule and require specialists in public schools to obtain a license through the board. The board member said credentials and requirements for speech pathologists and audiologists should be consistent. She said people employed as speech pathologists and audiologists have encouraged the board to look at the exemption.

The board member said that since 1992 people in the profession have encouraged the board to lift the exemption for public school employees. The issue has been brought up at least annually.

In the past the board did not feel it was the right time but it appears that now the board and the practitioners in the field are on the same page.

A lobbyist representing the West Virginia Speech and Hearing Association told the committee that the proposed rule revision has that organization's full support.

The House of Delegates passed a similar bill in last year's legislative session, but it died in the Senate. Members of the committee were concerned with how licensure would be funded. They pointed out that some county boards of education do not have the money available to pay for the certification and continuing education that is required of board-licensed specialists. However, a representative from the West Virginia Department of Education Office of Professional Preparation said some counties provide supplements to speech-language pathologists if they do not have the money to hire full-time specialists.

Speech language pathologists and audiologists are in

short supply statewide. To obtain a license from the board, specialists must have at least a master's degree. This comes after six years of training. To get in to graduate school, candidates must have at least a 3.7 grade point average in their undergraduate course of study. This stringent training, according to the representative, results in a lack of candidates. West Virginia University's program will graduate 20 students in the spring, while the program at Marshall University will graduate 22. A shortage of specialists means some county boards of education have to contract out to meet their needs.

The need for speech language pathology, particularly for children and the aging population, is increasing, in West Virginia, according to the representative.

West Virginia's standards for speech language pathologists and audiologists are higher than most other states. However, many specialists practicing in public schools are set for retirement in the coming years. The board's proposal includes a two-year window in which those practicing in public schools can obtain a license as well as continuing education credits.

If the Legislature accepts the board's proposal, the representative said they would have more control over the fees specialists would have to pay to obtain a license.

Those fees would be decided during the legislative rule-making process.

The representative from the department of education said those who practice with a bachelor's degree are considered speech assistants according to current practices. Some speech language pathologists who have not obtained a master's are not considered speech assistants because



they were grandfathered in when the law took effect. She said the board does not certify specialists unless they have a master's.

Government Organization Subcommittee C

September - Utility Costs

A senior Washington lobbyist for AARP urged legislators during this month's interims to do everything possible to control utility costs for senior citizens and others on fixed incomes.

The lobbyist said that, although electric rates in West Virginia are lower than the national average, West Virginians also have comparatively low per-capita incomes and have higher-than-average rates of energy use.

As a leading national advocate of efforts to control utility costs, the lobbyist said AARP offers several recommendations to the Legislature to curb soaring residential energy costs:

- Expand discount plans for retirees and low-income citizens. She said that includes expanding eligibility -- for instance, she said, recipients of Social Security retirement benefits are eligible for discounts, but recipients of Social Security disability payments are not. AARP would also like to see the plans expanded to offer year-round discounts. Currently, the lower rates for electricity, natural gas, and most recently, water, are available only in the cold-weather months of October to April.

- Expand efforts to help seniors and low-income residents make their houses more energy-efficient. Too many houses in the state are not properly insulated and lack modern energy efficient appliances and heating and cooling systems, contributing to the state's high-energy usage rates, she said.
- Increase funding for the Consumer Advocate Division of the Public Service Commission.
- Carefully monitor attempts by utility companies to increase consumer costs through surcharges and pass-through billing.
- Do not pass legislation to permit prepaid utility services. In some states, the lobbyist said, low-income consumers can prepay for utilities to avoid running up large bills.

The down side of the prepaid plan is when the money runs out, the power is literally shut off.

She said AARP is concerned that at some point, utility companies will force consumers who are behind in their payments into pre-paid plans, in states that allow such payment options.

At least one legislator Wednesday suggested that AARP should be looking to Washington, not Charleston, to control utility costs.

The lobbyist noted that AARP generally does not lobby on matters such as Environmental Protection Agency regulations, but said higher emission standards for coal-fired power plants obviously contribute to higher electric rates.

Joint Committee on Health

September - Health Benefits

Requesting the Joint Committee on Government and Finance study issues related to requiring direct payment by health insurance companies and health maintenance organizations to out-of-network health care providers as opposed to sending payments to patients who would then be required to pay the out-of-network providers themselves.

The President of the Highmark Blue Cross/Blue Shield of West Virginia explained to lawmakers the problems that can arise if such legislation is passed. The fiber of Blue Cross/Blue Shield to provide services to its members, the spokesman told legislators. He noted there are multiple purposes for contracting for payments. The direct payments by health insurance companies and HMOs to out of network health care providers allows for an ample amount of resources, both internal and external sources, to provider portals to ensure that care is quality and appropriate.

The Blue Cross/Blue Shield representatives said the company would deal with insured business within WV, which is a minute portion of overall car, he told lawmakers. The company provides an appropriate level of payments, and on average the professional reimbursements are 140 percent of Federal Medicare. There is not an issue about fairness of payment or level of reimbursement.

Providers agree to accept the coverage. He noted that allowing providers to charge whatever they want would not be a good idea. The company has contracts with 100% of state hospitals and 98% with providers in the state. He told lawmakers it is Important to know

that the contracts are covered from out of state and the agreements will stay in force. The company has quality and is consistent in performance and the level of reimbursement as well as timeliness.

On behalf of America's Health Insurance Plans (AHIP) and the West Virginia HMO Association, a spokesperson from a Charleston law firm agreed with the insurance representative speak about the reasons that the assignment of benefits is not a good idea. He told lawmakers that three types of arrangements are generally accepted, fee for service (non existence), preferred provider association and HMO but under the state HMO Act, patients only go to the HMO provider network.

The issue comes down to quality of care and costs to the extent if the amounts of benefits are lifted; the costs go up and ultimately spread to other patients. Self-insurance plans are exempt as long as they are in compliance with federal law.

The President of the West Virginia Hospital Association spoke is in support of legislation that would require assignment of benefits to be honored. The Association represents 67 hospitals and health care systems. From the hospital perspective the assignment of benefits when a person comes into a hospital if he or she has insurance but does not have insurance plans with the provider when they are out of network, they can ask the hospital to accept their insurance and just collect deductibles and co-payments from the patient. This practice is in effect in 26 states. If the payment comes to the hospital, then it goes to the patient and that patient has to figure out what needs to be paid. By taking the patient out of the equation the dispute resolution goes better. Oftentimes



the hospital will not seek balance billing from the patient if the insurance makes a reasonable payment.

If the patient gets the check from the insurance company it's very easy for the patient to deposit the check into his or her account.

A spokes man from the West Virginia Medical Association also spoke in support of legislation that will require assignment of benefit documents to be honored. It shared the opinion with the hospital association. Health care providers are on the short end of the stick with insurance companies and assignment of benefits legislation would bring everyone on the same playing field, he told lawmakers.

Assignment of benefits is that paperwork that a person signs that says, "yes, you can bill my insurer," an authorized third party payment. Insurers have been refusing to pay the doctors, but instead sends payment to the patients.

It creates an administrative paperwork burden, the spokesperson said. The practice is unfair to the physician and to the patient. It all comes down to fairness in contracting. From the physician contracting it's a David Goliath situation. Patient gets confused and don't realize the money they receive is to be sent on to the provider, he said.

Lawmakers will continue to study the direct payment plan for a variety of reasons. Some to see examples of the success of this type of payment in other states, others are concerned that seniors will worry about getting bills in the mail, others see out of state travelers having problems getting into hospitals, among other issues.

Joint Committee on Health - Subcommittee A

October – Health Care Spending

Robert W. Woodruff Professor and Chair in the at Emory's Rollins School of Public Health discussed the work he has done under the contract with the WV Senate and WV House of Delegates and the Governor. The Legislature and the governor's office hired the health policy expert to review health care spending in West Virginia.

Around 17 percent of residents are covered by Medicaid, the state-federal health care program for the poor and disabled. Only 11 states have a higher percentage of residents on Medicaid, according to the latest federal figures, the expert told lawmakers.

According to the health analyst, 75 percent of associated health costs are linked to chronically ill patients and coordinating their care can do much to ease the rise in such costs.

In 2009, the passage of SB 414 recognized the need to implement a plan to reduce the level of costs and to develop a new, more effective option for reducing growth in health care spending to ensure the health of West Virginia citizens.

The intent of the legislation couples with the health care official's analysis that West Virginia "is among the highest in health care indicators as childhood and adult obesity which provides a direct connection to higher rates of diabetes, hypertension, hyperlipidemia, heart disease, pulmonary disorders and comorbid depression experienced in West Virginia. Nearly one third of the rise



Interim Highlights

in health care costs can be attributed to the rise in obesity throughout the state and the nation. Additionally, high rates of chronic illness represents a substantial reduction in worker productivity.”

The bill also called for a modernization of health care delivery, preventative services, healthy lifestyle and wellness methods. It also noted that health care providers be engaged with their patients. The bill outlined that “West Virginia must develop a health care system that is sufficient to meet the needs of its citizens; equitable, fair and sustainable, but that is also accountable for quality, access, cost containment and service delivery.”

As such, the bill created the Governor’s Office of Health Enhancement and Lifestyle Planning (GOHELP) whose purpose is to coordinate all state health care system reform initiatives among executive branch agencies, departments, bureaus and offices.”

During his presentation, the chair of Emory’s Rollins School of Public Health recommended to lawmakers expanding a diet, exercise and lifestyle program that he said has prevented adult-onset diabetes and can provide similar results against other chronic illnesses.

His first initiative called for a diabetes prevention program. A 16-week class dealing with nutrition, coupled with two and a half hours of exercise could lead to a 17 percent weight loss that translates into a 58 percent prevention rate. While the program should be offered throughout the state with the assistance of 90 percent federal funding, the health department is presenting determining how to distribute the dollars for availability throughout the state.

He also called for community teams to work with patients who have more than one condition. Medicaid teams should be put together to help build care for populations that fall through the cracks. The financial incentive of federal funding should stimulate the progress.

Teaming health care providers to focus on one patient in a single location will reduce health care costs overall. Some of the state’s community clinics already have teams of doctors, nurses, pharmacists and other professionals who help these people manage their prescriptions and stay out of the hospital. Studies show that this approach works, he said.

West Virginia can apply to amend its Medicaid plan to expand such teams statewide, and the federal government would cover 90 percent of the resulting costs. These teams also create jobs by requiring more health care-related positions, while increasing need for training programs at the state’s technical and community colleges, he said.

According to the presenter, state health officials recently landed a \$1.8 million federal grant to promote the diabetes prevention plan. While more funding is needed, this plan greatly cuts a person’s likelihood of ending up with diabetes even with modest weight loss.

West Virginia should embrace both recommendations before the federal health care overhaul adds an estimated 170,000 people to its Medicaid rolls, Thorpe said. He added that these proposals could also benefit Medicare, which offers no coordinated care, as well as the private insurers.

Joint Committee on Health - Subcommittee B

October - Update on Insurance Exchange

An insurance exchange meant to pool the buying power of individuals and small businesses regarding health care coverage is being reviewed by the Health Subcommittee B. The exchange, when developed, is to be designed to provide affordable health care.

In 2011 West Virginia enacted SB 408, which would provide for a health insurance exchange in accordance with the federal Patient Protection and Affordable Care Act. According to the Acting Insurance Commissioner who addressed the subcommittee, the federal overhaul requires states to decide by 2013 whether to run their own exchange or leave theirs to the federal government. Private insurance companies would compete within this marketplace, offering different coverage policies.

Plans taken up thus far include research and planning, funded by a series of grants, the insurance official told lawmakers. One grant is helping the state review its first phase IT resources, as online services would play a major role in the exchange's operations.

A \$9.6 million grant landed in June has allowed the state to hire an actuary to estimate who would seek policies through an exchange, and at what rates. That will help the exchange set staffing levels. This grant will also fund the development of the exchange's business plan, the acting insurance commissioner said.

The state is also seeking bids for marketing the exchange, another critical task.

A 10-member board will operate the exchange and set its policies. Its members, yet to be appointed, will include state officials as well as representatives of such stakeholders as medical providers, insurers and consumers. West Virginia's exchange would not directly provide policies, leaving that to private insurers. It also would play no role in setting payment rates for doctors, hospitals and other providers. Insurers will handle that through their networks, the acting insurance commissioner told lawmakers.

The acting commissioner also said researching, marketing and studying an insurance exchange was a "mammoth project" with officials on the federal level releasing requirements as it goes. In addition, several lawsuits are in the courts regarding the Affordable Care Act. He also noted the insurance agency in approaching the studies is ensuring the process is transparent and is conducting multiple public hearings, and working with a consumer committee, insurance agents and health care providers.

With WV being the 2nd state to enact exchange legislation after the Health Care Affordability Act a working group meeting individually with medical providers and other more confined groups is making its monthly meeting information available on the WVInsurance.gov website.

Joint Meeting - Joint Committee on Health - Subcommittee B and Judiciary Subcommittee A

October - Prescription Drug Abuse

Members of this joint committee interim meeting in October heard a presentation from the West Virginia



Medical Association with recommendations relating to prescription substance abuse in West Virginia

The first recommendation was to promote a more proactive prescription-monitoring program. This could be done, the speaker noted, by establishing a Prescription Monitoring Program (PMP) advisory committee and case review committee to assist the WV Board of Pharmacy in operating the PMP, establishing continuing education/public outreach programs and performing database reviews based on established and recognized clinical criteria to identify and detect inappropriate and/or possible illegal activity.

Also, establishment of a reporting process for the PMP advisory committee to inform professional licensure boards of suspected inappropriate and/or illegal activity and ensure the professional licensing boards have clear authority to fully investigate such reports. Other ideas were to require the Board of Pharmacy to provide a comprehensive annual report on the PMP as part of their annual report to the Legislature and establish funding under the WV Board of Pharmacy to enable the implementation of additional programs and responsibilities of the PMP.

Next, the speaker discussed ways to enhance PMP reporting, review and confidentiality requirements. This could be achieved, potentially, by requiring reporting of dispensing information of controlled substances to the West Virginia Board of Pharmacy's PMP within 24 hours, requiring the name of the person who received the prescription from the dispenser, if other than the patient, and the source or method of payment be added to the PMP reporting criteria and establishing new, enhanced

methadone reporting requirements to the PMP.

Also, establishing a process whereby the prescriber or dispenser must review the PMP information under certain circumstances and adding enhanced penalties for unlawful access and/or disclosure of PMP information would be a step in the right direction, noted the representative. Also, expanding immunity protections to prescribers and dispensers who report any individual suspected of attempting to illegally obtain a controlled substance and establishing a process for the State Medical Examiner to notify and provide information to the appropriate licensure boards and the PMP select review committee when the coroner determines a prescribed controlled substance contributed to an overdose death.

Next addressed was the topic of providing better control of scheduled drugs. One idea was to enable the WV Board of Pharmacy and/or WV Public Health Commissioner to limit the manufacture, sale, distribution or possession of newly identified substances/products deemed hazardous to the public health. Second, update the list of scheduled drugs in state code to comply with federal law and encourage E-Prescribing of Controlled Substances. Next, make Tramadol (Ultram®) a schedule IV drug, establish regulation of pain clinics and medical practices that specialize or have a high concentration of patients being treated for pain and establish restrictions on the quantity of controlled substances that can be dispensed to a patient in-office.

Finally, make pseudoephedrine and other drugs considered precursors to methamphetamine schedule IV prescription drugs and support the development of a Medicaid pharmacy lock-in program.



The final recommendation centered on improving education training and certification. This could be addressed, as noted by the speaker, by initiating a public information campaign targeted at educating the public in West Virginia that there is a risk of death from prescription drug overdose and that taking a medication not prescribed for oneself is potentially fatal. Also, by requiring all law enforcement officers permitted access to the PMP to complete recommended training/education programs and promoting greater use of pain treatment agreements with patients for opioid analgesic medications in appropriate circumstances. And finally, codify the West Virginia Controlled Substances Advisory Board.

**Select Committee
on Infrastructure**

October - SCR 57

Committee members heard from a number of speakers regarding a highway sign program during October’s meeting.

The committee was assigned SCR 57 during the 2011 regular session. This resolution calls for the study of implementing a highway sign program to direct visitors to tourist-oriented businesses.

House of Delegate Members from the 46th and 37th Districts addressed the committee on why there is a need fro tourism directional signs because they believe that the current signs are inadequate in promoting the state’s tourism locations.

The Delegate from the 46th told the committee that he, along with other members of the House of Delegates,

sponsored a bill of creating a pilot program for these signs but it was discovered it was a statewide problem. One of the problematic signs are those labeling mountain trails, which the Delegate told the committee are too small and they need to be improved. The Delegate also said that he would like to work with the Division of Highways on a bill that would make more readable signs for tourism locations in order to make it a more uniform process.

A representative with the Division of Highways also addressed the committee and told them that the reason the Division of Highways was against the bill introduced during the regular session is because there are already programs in place regarding these signs but feel that the Division of Highways may not have promoted it and to make individuals more aware of these programs. She also mentioned that with regards to the size of the signs there are state regulations in place for these highway signs and their dimensions.

Judiciary Subcommittee A

September – Prison Overcrowding

The Chairman of the Board of Parole and a spokesperson from the Kanawha County Public Defender’s Office addressed lawmakers regarding prison overcrowding. The presenters were armed with a variety of material which covered more than a dozen states that have tackled sentencing and corrections issues during their 2011 Legislative Sessions.

Below is a listing of a few public safety legislative victories in states bordering West Virginia:



Interim Highlights

Kentucky: Generated by a legislatively created task force, the law ensures prison space is available for the most serious offenders by distinguishing between serious drug trafficking and peddling, and establishing a proportionate scale of penalties, strengthens probation and parole by incorporating risk and needs assessments into the decision-making process and requiring the use of evidence based practices to reduce recidivism and tracks progress under the law so the legislature can effectively evaluate results.

* The impact is estimated to save Kentucky taxpayers \$422 million over 10 years. Approximately half of the savings will be reinvested in efforts to reduce recidivism among substance-abusing offenders.

Maryland: Unanimously passed a bill establishing a pilot program in two counties that will impose swift and certain administrative sanctions for parole.

* No calculation for potential savings.

Ohio: Enacted a comprehensive criminal justice reform package with overwhelming bipartisan support. It diverts first time property and drug offenders to serve probation terms with appropriate treatment, increases the felony theft threshold from \$500 to \$1000, raises the sentence length for certain serious violent offenses, makes more cost effective use of community corrections programs by requiring use of evidence-based practices and the adoption of a common set of risk assessment instruments, strengthens probation supervision by establishing statewide standards for supervision, and sets a goal of reducing recidivism by 10 percent.

* The impact will avert a projected 3,000-inmate increase, avoiding \$500 million in prison construction and operations costs and reducing corrections spending by \$78 million by 2015. The law also reinvests \$20 million over four years by providing funding and incentive grants for improving felony probation supervision.

Other information provided to lawmakers included data from the American Civil Liberties Union regarding Smart Reform, an example of Ohio selling one of its prisons to a private enterprise and reorganizing its remaining prisons and a study report from the NCSL Sentencing and Corrections Work Group. The common threads within the articles call for sentencing guidelines, drug treatment centers, rework parole and limit recidivism with community supported parole centers.

The backlog of prisoners in the state's overcrowded regional jails is preventing what could be more than 600 parole-eligible inmates from earning a hearing, legislators were told. It also means the state could be spending thousands of dollars each month to house prisoners who might otherwise have been released.

The, chairman of the state Board of Parole, told lawmakers that even though his board has granted more parole requests, a logjam remains that his board cannot address.

To become eligible, Division of Corrections inmates don't just have to meet the minimum sentence guidelines prescribed by law. They also have to complete certain prerequisites to appear before the parole board. That includes developing a plan for how they will obtain housing upon release and completing a series of



rehabilitation courses such as substance abuse or anger management at a prison. The type of crime the inmate committed determines the classes required for a parole hearing.

The board conducted 4,366 parole hearings last fiscal year - 432 more than the year before and The number of requests granted has gone from 35 percent in 2007 to 48 percent last year.

September (Meeting 2) - Prison Overcrowding

Committee members heard from the State Supreme Court Administrator regarding the state’s prison overcrowding problem during Judiciary A’s meeting.

The Administrator told the committee that the courts are hoping legislation will resolve West Virginia’s current prison overcrowding problem so that do not have to get involved. He also told the committee that the courts are in agreement with many possible resolutions to reducing the prison population except for the building of another prison in the state. The Administrator also said that the process of building another prison is one that takes a political life of it’s own from the competition of location to bidding of the contractor. According to the Administrator, money to build a prison is better spent elsewhere such as community corrections and similar facilities in order to reduce the recidivism rate.

One area of the courts that is working well so far is Juvenile courts with the new truancy project being the most promising with positive results. The project is working so well that the Administrator hopes that it is replicated around the state. Another aspect created for

juvenile courts is the creation of the Adjudicated Juvenile Rehabilitation Review Commission that will investigate juvenile justice facilities and procedures in the state. The commission will then report its findings to the Supreme Court to see what opportunities are being missed.

The Administrator also touched upon the drug courts and, while effective, are taking their toll on the judges overseeing them. In his personal opinion, the Administrator told the committee that he would like to see law masters, signed off by circuit or supreme court justices, oversee the state’s drug courts. He told the committee that drug courts are effective but the time that goes into the court is wearing on those currently overseeing them.

Another area the Administrator touched upon was the state’s sentencing issues. He told the committee that reentry to society of an inmate begins once he/she is convicted and that they must be strategically dealt with in a way that they won’t return to the prison system. More Work-release programs for nonviolent offenders would be one way in reducing the current prison populations.

The Administrator also stated that some states have successfully lowered their prison numbers and some have even rewritten their criminal code. Texas was facing the prospect of building a \$1 billion prison until they revisited their criminal penalties a few years ago. Now, they have vacant beds in their prisons. Some are doing justice reinvestment, which is a data driven approach to reduce recidivism rates. One example of justice reinvestment is life skills training.

According to the Division of Corrections (DOC), 80



to 85 percent of those incarcerated have a drug or/and alcohol problem. The DOC has a number of great programs to help those with these problems, but the Administrator told the committee that these programs are just too small to take care of all who have a problem. He also stated that we need to look into lifestyle issues and what kind of communities these inmates are going back to. Many owe child support when first released. Before the law was changed, those released were put back in prison for failing to pay child support because they had no employment. Now those released from jail can only be charged \$50 a month until they find a job.

Another problem the Administrator believes can be corrected is more gradual sanctions for the more technical sort of probation and parole violations, and also ensuring that magistrates set reasonable bail amounts. The Administrator told committee members that 40 out of the state's 158 count magistrates have done poorly in this area. He has even referred one magistrate to the Judicial Investigation Commission and another who sets very high bails so judges in his/her county, who belong to a different political party, are seen as soft on crime if they reduce the bail amounts.

The Administrator also believes that West Virginia's criminal code should be updated since it has not been changed in the past 80 years. One suggestion would be to make all inmates, other than those serving life without mercy, eligible for parole after 20 years. Right now, an inmate must complete half of their sentence to be eligible for parole. He also stated that public opinion is also changing. They are no longer saying to lock prisoners up and throw away the key.

Judiciary Subcommittee B

October - Bullying Update

Staff counsel gave the committee an overview the state's 2011 session bullying initiative as well as the New Jersey Bullying Bill of Rights.

Counsel explained that with the passage of HB 3225 during last year's regular session, West Virginia expanded the definition of bullying. The new definition is defined as "harassment, intimidation or bullying" means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat."

The newly expanded definition also includes acts that would physically or emotionally harm a student, as well as conduct that disrupts or interferes with the orderly operation of schools.

The bill also expanded the areas where harassment, intimidation or bullying is prohibited to include school buses and bus stops.

Prior to House Bill 3225, the Student Code of Conduct and similar policies' applications were expressly limited to student conduct during education-sponsored events and school-sponsored activities. The bill only restates what the existing law is and has been for a number of years. That is, schools may discipline students that generate offensive or threatening Internet content off school premises as long as the content materially disrupts the educational process or school operations, or presents a reasonable risk of disruption.

Counsel also explained the New Jersey Bullying Bill of Rights. The law requires school officials to combat



incidents of harassment, intimidation and bullying. Included are those that occur off school grounds — even online — if they “substantially disrupt or interfere with the orderly operation of the school or the rights of other students.”

The law requires a formal process for reporting and investigating suspected bullying. Every district needs an “anti-bullying coordinator,” and each school an “anti-bullying specialist” and a “school safety team.”

In New Jersey, 400 school officials were trained over the summer to prepare for the implementation of the new law. Some critics of the law say while well intended, it could be cumbersome and lead to legal challenges.

The committee also heard from many interested stakeholders on the bullying issue including, Valley Health Care, The West Virginia ACLU, Fairness West Virginia and the West Virginia Family Policy Council.

The committee plans to continue to look at ways to fight bullying.

Judiciary Subcommittee C

September - Gubernatorial Succession

During September’s meeting, committee staff presented draft legislation relating to gubernatorial succession for committee members to consider.

One issue that has been hard to deal with is if one is disabled. Although the Constitution says if one is disabled they can be replaced, most states have let this

slide. Also mentioned was if one in office is out of the country for an extended period of time should they be replaced. There are 30 states that state that if one in office is out of the country at least 20 days, they are found a replacement. Another issue to consider is if one is incapacitated, should they be replaced. Some states state that if one in office is incapacitated for three to six months, they must have a replacement.

Discussion and possible consideration of the legislation to be introduced during next year’s regular session will continue in the coming months.

Parks, Recreation and Natural Resources Subcommittee

October – Musky Research

The Department of Natural Resources reported its findings on musky research at North Bend Lake. The study is designed to determine the fishes’ population, home range, where they spawn and where they migrate within the 305-acre lake.

Located in Ritchie County, the lake stretches from North Bend State Park through and past the town of Harrisville for 8.1 miles. North Bend Lake provides a warmwater fishery for largemouth bass, bluegill, crappie, musky, and channel catfish.

The movement of wildlife is a federal aid project with 75 percent of the funds coming from licenses.

Incorporating receivers implanted into 18 musky, six receivers under the surface of the lake pick up the fishes’



movements and record the location, the time and the date of the activity. The four-year study has recorded a 43-inch musky that could have been an adult when the lake was filled, according to the DNR’s district fisheries biologist. The four-year time limit reflects the life of a transmitter.

Key findings came from 1.2 million records since the research began two years ago. In the Spring, most fish are found in the upper lake. Spawning occurs around the first of April. The fish migrated downstream in mid Spring and stayed throughout the Summer. In the Fall, they once again moved upstream and during mid-Fall went downstream.

A 36-inch male moved the entire length of the lake. A 43-inch fish also moved at night making major trips, two miles up, four miles down and two miles up again, the biologist told lawmakers.

The study also found that 65 percent caught are males, which are more vulnerable to fishing gear since they are in shallower waters seeking females.

Musky are native to West Virginia and can be found in the Elk River, Ohio River, and Kanawha river. The study will continue for two more years.

Select Committee on PEIA, Seniors and Long Term Care

September - West Virginia Bureau of Senior Services

The Acting Commissioner of the West Virginia Bureau of Senior Services began her presentation with the

question, “When did the Bureau get into the insurance business?”

With that said, she told lawmakers in 2001 the Golden Mountaineer Card provided pharmaceutical benefits at one specific drug store chain. Believing that the contract with Caremark and the chain was confusing and serving very few people, the Bureau will not continue its contract after the end of October of 2011. The Bureau spokesperson said it would be checking with the pharmacies to quantify the numbers of people that the cancellation may affect.

Instead, the Acting Commissioner would like to reissue the Golden Mountaineer Cards for their initial intent, senior retail discounts at participating businesses. The Bureau plans to pursue as many state businesses as possible to join in the discount program for seniors. In addition, she agreed to a suggestion to investigate the possibility of working with the DMV regarding discounts for senior discount hunting cards for businesses to recognize as well.

The new cards and the revitalized program are expected to kick off on Nov. 14, 2011.

Also the Director of the West Virginia Long Term Care Partnership provided lawmakers with an update on its State Scorecard on Long-Term Services and Supports for Older Adults, People with Physical Disabilities and Family Caregivers. The Scorecard is a multi-dimensional approach to measure state-level performers of LTSS systems that provide assistance to those individuals in need of support and care.



The report establishes who is eligible for assistance, what services are provided, how quality is monitored, and the ways in which family caregivers are supported. The idea behind gathering the information is so that all recipients of care can exercise choice and control over their lives, thereby maximizing their independence and well-being.

The Scorecard examines state performance across four key dimensions the LTSS system performance. Each dimension is composed of 3 to 9 data indicators for a total of 25 indicators. All 50 states and the District of Columbia were ranked. West Virginia ranked 49.

If West Virginia could raise its performance to the level of highest performing states, then the state could provided 7,871 more low or moderate income coverage by Medicaid; 1,645 more people would first receive services in home and community based settings instead of nursing home; 1,063 more nursing home residents would receive long term care and support in the community; and 955 unnecessary hospitalizations of people in nursing homes would be avoided.

Also addressing the committee was the Executive Director of the West Virginia Chapter of the Alzheimer’s Association. He indicated the Association had three working groups meeting since June. The groups include a study of Care Systems, Research and Quality Improvement and Education and Training covering support systems available for families.

The group’s recommendations are expected to be provided in the coming months.

Joint Standing Committee on Pensions and Retirement

September - Court Decision

The Executive Director of the Municipal Pensions Oversight Board addressed committee members on the number of police officers and firefighters who fall under Cabell County’s Circuit Court decision Fuller v. Huntington Policemen’s Pension Board of Trustees during September’s interim meeting.

According to the Executive Director, there are a total of 16 officers, 10 police and 6 firefighters, affected by the court case, which would permit them to retire early.

The plaintiff in the case Fuller v. Huntington Policemen’s Pension Board of Trustees had acquired 20 years of service with the Huntington Police but, however, was not 50 years of age when he filled out his retirement papers. It was ruled years ago that armed forces could retire without reaching the age of 50. The plaintiff in the case had served in the Gulf War. The Executive Director told the committee that the judge in the case took liberal construction of the Code and believed that since the plaintiff had served in the Gulf War he should be allowed to retire at the age of 49.

One committee member asked if there is consideration in appealing the verdict, which the Executive Director stated that the Board itself did not have the legal ability to, but the local board could. However, the Local Huntington board agreed with the ruling and is not seeking to appeal at this time.

Another committee member asked the Executive Director if there were any worries that there could be further ramifications from this ruling regarding other pension plans. The Executive Director said there could



be – but it is not as likely since this was a Circuit Court ruling and not a Supreme Court ruling.

Legislative Oversight Committee on Regional Jail and Correctional Facility Authority

September - TASC

Committee members heard from members of the non-profit organization Treatment Alternatives for Safe Communities (TASC), during September’s interim meeting.

The Director of TASC Institute told the committee that TASC has been engaged in case management, designing and administering numerous programs that connect courts, jails, probation, prisons, and parole with supervised community-based treatment and recovery support services since 1976. They provide less costly and more effective treatment alternatives to prison for those individuals charged with non-violent felony offenses. TASC also provides services for a number of prison and jail reentry programs by working closely with parole and probation. The Director told the committee that these services consistently improves client outcomes, frees up public dollars, and helps to avoid the necessity of raising taxes. For example, the Director told the committee that Illinois taxpayers pay out \$24,89 to keep an inmate locked up. With the TASC’s resources and supervision that cost is less than \$5,000.

The Director told the committee that structured supervision approach is to supervise non-violent and low-level property and drug-involved offenders in the community.

It is estimated that 80 percent of West Virginia’s inmate population are incarcerated for drug-related offenses. The state also ranks 50th in the nation in the use of community-based inmate programs.

Those served by TASC have alcohol/drug or mental health problems. According to literature passed out to committee members, the first step in TASC’s case management is identification, screening, and assessment. This enables TASC to determine the nature and extent of clients’ needs. The next step is recommendations and service planning, which may incorporate a number of resources such as substance abuse treatment, educational or vocational resources, medical and mental health providers, and domestic violence programs. Service referrals and placement matches clients’ needs with available community-based resources. TASC often schedules intake appointments, shares appropriate assessment information with providers, transports clients to services when necessary, and refers clients to ancillary services such as primary health providers or public benefits programs. Lastly, TASC provides ongoing monitoring, reporting, and service plan adjustments to their clients.

The Statewide Director of Corrections and Community Reentry Services for TASC told the committee that Sheridan and Southwest Illinois Correctional Centers are fully dedicated substance abuse treatment prisons with an intensive focus on community reentry services. Prior to an inmate’s release, they must have a reentry plan that includes an appointment for community-based aftercare scheduled within a week of being released. Recent data shows that 90 percent of those released went into



aftercare services in the community. The majority of them participated in either intensive or regular outpatient services, which are the least costly forms of community-based substance abuse treatment. Each facility has saved over \$2 million through structured supervision by TASC and has eased the overcrowding problem as the number of repeat offenders is reduced.

The Director of the Day Reporting Center Program in Frankline County, Pennsylvania told the committee that the Franklin had an old and overcrowded jail in 2001. When the new jail was built, a day reporting center (DRC) was added as an intermediate punishment program. It was opened in 2006. A study into the effectiveness of the DRC was released earlier this year and showed that successful DRC graduates has a recidivism rate of just 18 percent compared to the national rate of 65 percent. The need for jail beds has been reduced as well as the average length of stay in the jail. The Director of the DRC told the committee that there was one population that was showing little success and that opiate addicts. To help this group, the DRC collaborated with the Adult Probation Department to form a Medication Assisted Treatment, or MAT. In July of this year, a review of the program showed a 76 percent success rate for all MAT clients. No staff was added for the program and DRC programs stayed the same with the formation of MAT. The MAT program is low-cost. It costs an average of \$4,200 for 21-day outpatient addiction treatment. The average cost per client in the MAT program is \$1,250 over 225 days.

Select Committee on Veterans’ Affairs

September - Veterans Tuition Programs

The Veterans Coordinator for the West Virginia Higher Education Policy Commission (HEPC) presented information to the committee regarding state and federal tuition programs for veterans during September’s interim meeting. One program is the Federal Yellow Ribbon Program, which is part of the post 9/11 GI Bill that pairs school dollars and federal money to cover tuition and fees above what students would pay to go to a public college. However, only certain veterans are eligible to enroll in the yellow ribbon program. According to Veterans’ Affairs, a veteran must have served at least 36 months of active duty after September 10, 2001, or have been “honorably discharged from active duty for a service-connected disability” after serving 30 continuous days after the terrorist attacks. The Veterans Coordinator told committee members that about 14 percent of veteran students at public schools use it. He also told the committee that school participation is voluntary.

The Yellow Ribbon program pays up to in-state tuition, which means that out of state veterans would pay more for tuition. For example, WVU’s in-state tuition is \$5,674 and out-of-state is \$17,844. WVU would receive \$11,759 from the Yellow Ribbon Program for out of state students and all of the tuition money for in-state students.

According to the Veterans Coordinator, in April, almost 10,000 students were receiving Veterans’ Affairs education benefits. Of that 10,000, 2,533 were enrolled in public institutions, 497 were enrolled in private non profit schools, and 6,769 were enrolled in private for profit schools. More information and eligibility requirements

Interim Meeting Schedule & Agendas
Please visit West Virginia Legislature’s Web site:
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>



can be found at: www.gibill.va.gov/GI_Bill_Info/CH33/Yellow_ribbon.htm.

The Veterans Coordinator also informed the committee of the changes of states' rolls regarding the GI Bill. When the GI Bill was first created in 1945, there has been a working relationship with Veterans' Affairs and states were able to review and monitor all programs. However, late last year, Congress passed a bill that all public and not-for-profit accredited programs are deemed approved without state review. This means that West Virginia no longer has authority over two-thirds of the education and training institutions offering education to veterans. West Virginia employees will also be required to function as Veterans' Affairs employees. The Veterans Coordinator told the committee that the bill passed by Congress reverses roles and that states gain nothing from this reversal. He also stated that several states have refused or are considering refusal of Veterans Affairs contracts for FY 2012. There is a glimmer of hope that it will not come to this as members of Congress are trying to repeal the legislation. However, contracts run out October 1. The Veterans Coordinator also said that Veterans Affairs does not have expertise, personnel, or experience to adequately take over the states' roles in the GI Bill.

Even with the possible changes coming to the GI Bill, the Veterans Coordinator told the committee that there is one solution that is being called WVI-Vets. It is just in the beginning stages but this program focuses on guaranteeing that our veterans succeed in one of our state institutions, have full access to high quality programs, and make career decisions. They also want to make sure that institutions and staff have the resources needed to be a veteran friendly campus. The goals hoped to be achieved through

this are increased numbers of veterans in our schools and also that they complete programs and graduate at a rate higher than that of the general student population.

Also addressing the committee was Cabinet Secretary of the State Department of Veterans Assistance who gave an update on a couple of issues. One was the progress of the Donel Kinnard Memorial State Veterans Cemetery, located in Institute, which is scheduled to be opened by December. The Cabinet Secretary told the committee that everything has progressed well except some issues with sod planting. Instead of planting the sod so late, the Cabinet Secretary said that he has decided to wait to plant it until April so that it will grow and look better.

The Cabinet Secretary also introduced the committee to the Department of Veterans Assistance's new public affairs officer, who at the time of the meeting, has been with the Department for less than two weeks. The Public Affairs Officer told the committee that her main focus right now is the website. She also said that a few things have already been launched including an interactive WV Heroes option that allows those with veteran family members or friends post stories and pictures of these veteran heroes. The theme of the website is "You've been there for us, let us be there for you." The website will announce upcoming events throughout the state, start a newsletter in conjunction with local VFWs, and press releases going on at a local level. The website is www.veterans.wv.gov.

October – National Guard Veterans

During two meetings conducted by the Select Committee on Veterans Affairs in October, lawmakers were updated



on efforts being conducted to assist returning veterans of the state's National Guard. While the State Adjutant General made presentations, a Quality of Life regional liaison from the US Department of Defense provided information regarding the Military Community and Family Policy Program. Also proposals regarding legislation affecting military personnel were also mentioned at the meetings.

Proposals regarding draft legislation to be submitted by the Adjutant General to the Legislature in 2012 include one to clarify military retirement credit and another to release landowners from liabilities if they allow for homeland defense training on their property.

According to the military leader, clarifying retirement credit may erase the ambiguity being experienced by retirees and the state retirement board. State employees who also serve in the National Guard may be deployed for a year or more but Air Guard service personnel see smaller lengths of time but have to wrestle for proper service credit. Several air trips throughout the year but not continual deployment still take a state employee out of the workplace and into a defense environment. A year could be broken up multiple times but state employee/national guardsmen and women are not credited services to a homeland security event.

Regarding proposed legislation regarding landowner liabilities, the Adjutant General told lawmakers federal monies cover the soldiers who train but there is no protection for private landowners.

A Quality of Life Regional Liaison, US Department of Defense State Liaison Office Presentation representing

the Military Community and Family Policy program sought lawmakers' consideration on facilitating service members receiving licensure and academic credit for military education, training and experience.

While the liaison noted the volunteer group does not lobby, he works to have states recognize such problems as licensure. As an example, he said members getting out of the service might have experience to be truck drivers. Since they have the experience in ready, he is seeking a smoother transition in obtaining truck-driving license, among others.

The same may hold true for spouses who may be teachers, real estate agents or have careers that call for a state license. He is asking for state lawmakers to recognize and remove some barriers.

The Military Community and Family Program liaison requested another of the group's priorities be reviewed. The group is asking for the assurance that deployment separation does not determine child custody decision. He noted the state could appropriately balance the interest of service members while preserving the best interests of the child; address delegation of visitation rights; expedite court dockets; and, use electronic communications to accommodate military demands.

West Virginia lawmakers have already addressed other priorities of the group in recent years such as ensuring absentee voting for military members and their families and the appropriate disposition of remains.

Another issue brought up by committee members covered unemployment compensation for a spouse



Interim Highlights

who follows a transferred soldier. If a wife or husband quits her or his job and follows their spouse then s/he is penalized because s/he voluntarily quit and is not eligible for unemployment. The numbers of these people are to be calculated and provided to lawmakers in the coming months.

During the two-day meetings, lawmakers were provided updates on the status of the National Guard and other programs designed to meet the needs and assist and support reservists, military personnel and their families.

The West Virginia Adjutant General told lawmakers that the West Virginia National Guard is in transition to a generational change. The variety of support systems to military personnel who are enhancing their skills either through veteran friendly college programs or trade schools is being recognized from generation to generation. Children of National Guardsmen and women are looking into signing up for the Guard as one way to enhance their futures and receive career guidance.

With national defense spending predicted to be on the decline in coming decades, West Virginia's National Guard leadership is trying to reinforce leading officials to investigate the possibilities of the National Guard being a cost effective solution for rising defense costs, the Adjutant General told lawmakers.

Utilizing national guard personnel costs one-third of the money needed to maintain active duty. The greatest expense is maintaining huge military bases. In addition, retirement plans for national guardsmen generally reflect those who retire between 55 and 60 years old. Those who are active duty can retire after 20 years of service

ultimately having a greater length of retirement. If they enlist at 18 and retire at 38, then their retirement package covers many more years than a national guardsman.

Overall, the Adjutant General said, the overhead engaged by full time guardsmen may cost 85 to 90 percent less than costs incurred by active duty soldiers.

An update for programs supporting returning veterans and employer support was also on the table.

The Employer Support of the Guard and Reserve (ESGR) Territory Chairman provided an update on the workings of that program. The ESGR on the national level has a mission to serve nationwide employment and West Virginia's participation leads the nation. The state has won five key national awards for people who support ESGR.

Presently, returning guardsmen and women who do not have jobs is a significant problem. An estimated 172 are returning home and the territory chairman told lawmakers the organization is working feverishly with prospective employers. While the numbers are an estimate, lawmakers are seeking accurate figures so they may have a better glimpse of the proportions of the problem. This includes data regarding the numbers who were not employed at the time of their deployment.

ESGR is basically a volunteer organization. While the Federal government acts in its own manner in addressing veterans' issues, community support has the greatest impact on returning troops, the territorial chairman told lawmakers.



He said people from all walks of life volunteer with some being employment experts. Presently the working group is putting together a memorandum of understanding to pull together and identify available services.

A new website, WV Military Connection <http://www.militaryconnection.com/exchanges.asp> to be attached to the Department of Veterans’ Assistance, <http://www.militaryconnection.com/exchanges.asp?Start=940&Offset=20> is also being developed and will be continually enhanced to serve as a portal for service personnel support. While the WV site is presently at its initiation stage, the web designer said it is a work in progress and will soon offer a large range of assistance.

While significant changes have been introduced for helping wounded warriors, private support is also gaining ground. The Adjutant General praised the efforts of Spencer native Andrew Miller who raised \$21,205 for the Wounded Warrior Project by doing a cross-country run. In addition, Miss West Virginia is taking up the fund raising cause in Martinsburg.

**Joint Legislative Oversight
Commission on State Water
Resources**

September - Golden Algae

A representative from the West Virginia Department of Environmental Protection gave the committee an update on golden algae in the state.

In the fall of 2009, A bloom of toxic alien algae killed thousands of fish, mussels and other forms of aquatic

life in more than 30 miles of Dunkard Creek along the Pennsylvania-West Virginia border.

The representative said low, warm creek flows and high levels of chlorides and dissolved solids combine to produce an environment conducive to the growth of golden algae, a species of algae usually found in southern and southwestern states.

The golden algae is one of a large group of algae known as chrysophytes that are usually found in hotter and desert environments and can produce toxins that are lethal to fish and other aquatic life.

The representative said the dissolved solid and chloride levels were high because of discharges from a mine treatment facility at Consol Energy’s Blacksville No. 2 deep mine and a second treatment facility at Consol’s Loveridge deep mine near the West Virginia town of St. Leo.

Once this golden algae was found both Consol and the WVDEP began monitoring for it at different locations along Dunkard Creek. November 12, 2009 is the last date at which several test sites detected golden algae, and Dec. 30, 2009 is the last date at which any golden algae was found. Approximately 1500 water samples have been taken since then.

Interim Committee Information
For information on all Interim Committees, please visit West Virginia Legislature’s Web site: <http://www.legis.state.wv.us> and select the “Joint” link.



Legislative Oversight Commission on Workforce Investment for Economic Development

September - Middle Skill Jobs

The Chancellor for the West Virginia Community and Technical College System provided the committee with an update of the system’s efforts as it relates to workforce issues.

The Chancellor gave a presentation on middle skill jobs in the American South’s economy.

These jobs require more than a high school degree but less than a four-year college degree. Employers indicate that these jobs are the hardest to fill and will account for 44 percent of job openings over the next decade.


These jobs include but are not limited to information technology, maintenance workers, computer-controlled machine operators, aircraft technicians, nurses, dental hygienists, surgical technicians and respiratory therapists.

Nearly 55 percent of all jobs in West Virginia in 2009 were middle skill jobs, and 48 percent of all jobs in the next decade are projected to be middle skill. There is also a middle skill job gap in the state. While these jobs account for 54 percent of the state labor market, only 45 percent of the state’s workforce possesses the skills to do these jobs.

Strategies for closing this gap include:

- Setting bold training goals for middle skill jobs.
- Changing the perception of middle-skill jobs by

positioning them as a smart choice and not a second choice.

- Target training dollars toward high demand jobs.
- Collect and analyze data on middle-skill jobs
- Convene regional sector-based industry leaders to develop strategies to address demand.
- Develop Career-Pathways for adults. 

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