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West Virginia Legislature's
Office of Reference & Information

Interim Highlights



Chambers Busy with Activity

Coinciding with August Interim meetings, lawmakers were called into a brief extraordinary session.

photos: John Tice & Martin Valent

Third Extraordinary Session

On August 11th, lawmakers, convened in the Third Extraordinary Session. On August 12th, the Legislature adjourned sine die following the passage of a bill extending unemployment benefits for 20 additional weeks and another bill to authorize the West Virginia Development Office to utilize \$5 million made available in a 2008 bill to provide broadband services throughout West Virginia.

Extending unemployment benefits by changing language in the law, allowed for the use of additional federal matching moneys. A section of the federal American Recovery and Reinvestment Act (ARRA) of 2009 authorizes temporary changes to the federal-state unemployment compensation extended benefits program. The passage of HB 301 captured a temporary 100 percent federal match on extended benefits by changing language to “total unemployment rate” trigger from an “insured unemployment rate” trigger.

Additionally, the bill “sunsets” the new extended benefits trigger in December of 2009 when the federal matching moneys expire.

According to state officials, around 2,600 people have already exhausted their unemployment benefits and another 4,000 more were expected to lose theirs in the near future.

Senate Bill 3003 was also passed. In 2008, a bill was passed and money appropriated to begin implementation of broadband services in rural areas by 2010. Broadband services provide quality access to the Internet. While a \$5 million appropriation was included in that bill, SB 3003 gives the Development Office spending authority.

Since the passage of the 2008 bill, the Broadband Deployment Council (BDC) has been working with numerous entities including providers, consultants and federal agencies to meet the required technologies as well as West Virginia's challenging topographical and demographic realities.

West Virginia is uniquely poised to take full advantage of funds provided through ARRA and build out through the BDC structure to fulfill the vision of statewide Internet access.

The bill calling for a \$500 bonus for all state employees fell through the system. While the Senate passed the proposed measure, the House added provisions that ultimately raised the cost from \$34.7 million to almost \$60 million.

The House and the Senate could not agree and adjourned sine die on August 12th, 2009 without passing the bill.

Economic Development , Joint Commission on

The Joint Commission on Economic Development heard a report on inter-modal transportation from the West Virginia Port Authority and the Nick J. Rahall II, Appalachian Transportation Institute (ATI). Inter-modal transportation involves the transportation of freight in an inter-modal container or vehicle, using multiple modes of transportation (rail, ship, and truck), without any handling of the freight itself when changing modes.

The method reduces cargo handling, and improves security, reduces damages and losses, and allows freight to be transported faster. A reduced cost versus over-road trucking is the key benefit for intra-continental use.

Dr. Richard Begley from ATI and Patrick Donovan from the WV Port Authority discussed a new inter-modal terminal project destined for Prichard, WV in Wayne County. This terminal will connect to another facility in Roanoke, VA and also to Columbus, OH. The potential for development around these types of facilities includes an area of 75 miles around the site, which for Prichard, encompasses 60 counties and would include opportunities for warehousing and distribution centers. Typically, for these types of developments around 1,000 jobs could potentially be created.

This project is a partnership between Norfolk Southern, which controls the railroad lines, and the federal, state and local governments. At present, the site is shovel ready pending finalization of the environmental impact study and Norfolk Southern is in the process of renovating tunnels and tracks along the route.

Education Accountability, Legis. Oversight Comm. on

During August's interim committee, LOCEA members heard reports from the Chancellor of the Higher Education Policy Commission (HEPC), the Chancellor of the Council for Community and Technical College Education (CCTCE) and a research analyst for the Performance Evaluation and Research Division (PERD).

PERD Report - Higher Education Purchasing

First to address the committee was the research analyst from PERD regarding the Higher Education Purchasing Report. This report requires the Legislative Auditor to conduct a performance audit of purchasing functions and duties at higher education institutions, except WVU, Marshall and their affiliates, every fiscal year. The information provided in the report was purchasing contract usage and cooperative purchasing methods by higher education institutions during fiscal years 2006 and 2008.

The report provided recommendations from the Legislative Auditor. One recommendation suggests that higher education institutions that are not presently affiliated with a purchasing consortium should explore membership for potential cost-saving benefits. The reason for this is because the report found that the majority of purchasing at higher education institutions takes place through institutional contracts worked out by and for individual schools. Participation in cooperative procurement, the sharing of contracts between institutions, has been proven to be beneficial in terms of cost and time savings, however many higher education institutions stated that a hindrance to this method was the difficulty and time consumption resulting from searching various web sites and other resources to obtain contract information. That is why the Legislative Auditor suggests that the HEPC create a centralized procurement website to provide institutions with information regarding piggyback contracts and other cooperative procurement options that may be available to them. Other states have begun enhancing collaborative purchasing efforts, which have already shown to be a vital tool in cost containment.

Although nearly 45 percent of contract purchasing for small, West Virginia higher education institutions is done through cooperative arrangement, the Legislative Auditor concludes that this percentage can be higher. The first step should be with the HEPC increasing efforts to assist these institutions in utilizing cooperative buying.

CCTCE Report

Next to address the committee was the President of West Virginia Northern Community College who discussed the achievements fulfilled in the fiscal year.



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Topping the list of achievements was the fact that West Virginia Northern Community College is ranked as one of the 50 fastest growing community colleges in the nation for its size.

Other achievements include:

- Instituting a dislocated workers' program for individuals laid off in past 180 days, resulting in a very positive response from the community. The dislocated workers program offers West Virginians, who have lost their job in the past 180 days and wish to register for classes in a selected program free tuition. Most of the programs can be completed in one year.
- On-line enrollment increased by 149 percent and stands to grow over the next few years.
- Partnerships formed with Bethany College, Mountain State University, and WVU to facilitate easy transfer of credits for degree completion.

Another achievement of the Northern Community College is the creation of the state's first Middle College High School. A Middle College High School combines the resources of a high school and a community college in an effort to create a structure for students that promotes school membership and academic engagement. A major objective of the school is to help students become responsible adults. Outcomes from the completion of the Middle College High School program include:

- High school graduation
- Accumulation of college credits and early preparation for college admission
- Work experience and exploration of career options, particularly in multi-media and broadcasting.
- Improved attendance and academic achievement.

A potential student of the Middle College High School may be characterized as:

- Disconnected from the typical high school environment, but has a sincere interest in completing high school.
- Gifted in an area such as music, art or computers, but generally is not succeeding in other academic areas
- Is at risk of dropping out
- Is a creative, independent thinker

The Chancellor of the CCTCE updated the committee on the U.S. House Resolution 3221, or the "Student Aid and Fiscal Responsibility Act of 2009" which was approved by the House Education and Labor Committee last month.

The resolution provides for \$2.5 billion in Fiscal Year 2001 to states for new community college facilities and modernizing, renovating, and repairing existing facilities: Grants can be used to:

- Reduce the financing cost of loans
- Provides matching funds for community college capital campaigns
- Capitalize a revolving loan fund

The Chancellor told the committee that he has one problem with this because funds would be distributed to states based on their relative share of the nation's community college student enrollment, meaning that West Virginia would not receive as much funding.

The Student Aid and Fiscal Responsibility Act also makes available \$630 million to "eligible entities" to compete for four year grants in order to support innovative programs or programs of demonstrated effectiveness that lead to the completion of a postsecondary degree, certificate, or industry recognized credential leading to a skilled occupation in a high-demand industry.

HEPC Chancellor Report

The HEPC Chancellor provided committee members with his final report of the Statewide Task Force on Textbook Affordability.

The purpose of the nine-member task force was to serve in an advisory capacity to the HEPC and the CCTCE by examining the impact of the rising cost of textbooks on West Virginia and its citizens. The first meeting was held April of last year. They also met in October and December as well as February and July. The agendas and minutes of all these meetings can be found at www.hepc.wvnet.edu. During those meetings, the Task Force came up with various strategies for reducing or addressing textbook costs including:



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- Strengthen the market for used textbooks—using same textbook and edition for multiple terms, promoting on-line textbook exchanges.
- Adopt faculty textbook guidelines— set early deadlines for faculty to select textbooks, negotiate with publishers for bulk discounts
- Increase library resources
- Implementation of a textbook rental programs
- Utilize 21st Century Technology

Since the Task Force was created, Congress enacted the Higher Education Opportunity Act (HEOA) on August 14, 2008 and must be implemented by July 1, 2010. The HEOA requires:

Textbook publishers to provide, in writing, information on college textbooks or supplemental material to faculty in charge of course material selection

Institutions must include all required and recommended textbooks and supplemental material on any electronic course schedule

Institutions are encouraged to include information such as renting and purchasing of textbooks on any electronic course schedule.

Education Subcommittee A - Public Education

Several speakers discussed the details of a recent trip to tour City Charter High School in Pittsburgh, Pa. Dale Lee of the West Virginia Education Association discussed many of the advantages to the charter school system while pointing out that in his view, some of the technology and opportunity that they have at City High would not be realistic in West Virginia.

Lee explained that at City High there is a 26-1 student to teacher ratio and that each class has a special education teacher and a teacher aide in addition to the regular teacher. Lee contends that if you give the teachers in West Virginia these resources, results will improve.

Every student at City High is given his or her own laptop with full broadband Internet access. They are also required to complete a 130-hour internship in the career choice of their choosing. Lee points out that when comparing these schools to the West Virginia system you are comparing apples and oranges. Broadband Internet is not available yet throughout all parts of West Virginia to say nothing of the cost of the laptops. Also, in some of the more rural counties an internship in the student's career field is not realistic either. There are simply not enough career opportunities in those areas.

Also, teachers at City High start out at a salary of \$38,000 and go up all the way to \$72,000 based on experience and qualification. By comparison, West Virginia starts its teachers out at \$30,000 and ranks 45th in the nation in starting pay for teachers. Lee believes that if our state paid teachers a more competitive starting salary, we could attract our best and brightest to the profession.

City High also keeps students with the same teacher for all four years of their education. This allows the instructors to get to know their students better and gives them a better feel for their strengths and weaknesses. It also saves valuable time at the beginning of the school year when students are getting acclimated to a new teacher's structure and procedures.

While developing a charter high school may not be in West Virginia's immediate future, Lee is excited that the school innovation zones legislation has passed and that teachers will now be able to decide appropriate changes that they need to make the education system in this state better.

Ben Adams, the student body president at Capital High School also shared his impressions of the tour of City High. Adams felt that the school produced a student centered, teacher driven environment.

He also noted that each student has a career plan with two teachers whose only job is to get students ready for college and careers after school. The results of City High are evident with 85 percent of their students going to college and consistent standardized test scores above the state average.



Charter schools also have full control over their own budget and contrary to popular belief they don't just randomly pick students. All students are welcome and if the interest exceeds the available spots, students are selected based on a lottery system.

Education Subcommittee B - Higher Education

Rural Health Education Partnership (RHEP) Audit

Committee members were given a summary of the Suttle and Stalnaker RHEP audit findings by the Higher Education Policy Commission's Dr. Robert Walker, Vice Chancellor for Health Sciences, during this month's interim meeting.

The audit was performed by certified public accountants Suttle and Stalnaker who performed the following procedures:

- Reviewed WV Code section 18B-16 regarding the establishment of the rural health initiative and other relevant documents provided by the specified users or other key stakeholders.
- Reviewed and summarized the current rural health initiative structure including the flow of funds, organizational structures, grant award processes, role of the consortium, role of the lead agencies, and the role of both RHEP/AHEC Administrative Office and the Commission.
- Conducted interviews of the key stakeholders and representatives in order to discuss the current structure and issues with the current structure.
- Reviewed a typical grant award document and budget form.
- Reviewed contracts between each lead agency and the consortium or other entity operating as a fiscal agent.
- Reviewed a sample of audit reports for appropriated disclosure and reporting of the RHEP program.

Based on their analysis of the WV Code, review of numerous documents related to the RHEP program, and discussions with individuals involved in various levels and functions within the program, various parties remain confused about lines of authority and about possible exposures. In

order to combat this problem, the summary provided various scenarios for the HEPC to consider in making sure that the problems are fixed.

Dr. Walker told the committee that now knowing what the problem areas are, they will be able to address and begin to firm up the accountability of the RHEP program especially now that they have the people and structure to do that.

Financial Aid

The committee also heard from CCTCE Chancellor, James Skidmore, regarding financial aid programs in the state.

Skidmore first told the committee that West Virginia has received an "F" in affordability for higher education. One reason for the poor grade is because low-income families have to pay 34 percent of a student's tuition. Another reason is also due to the fact that both regular students and adult students are not aware of all financial aid that is available to them so they do not take advantage of it. This is especially true in community colleges where only 60 percent of full-time students and 20 percent of part-time students are receiving some form of financial aid.

The Director of State Financial Aid programs, Jack Toney, provided the committee with an overview of all financial aid programs that are currently offered in the state. He also told the committee that making college accessible and affordable for all qualified and interested West Virginians are the goals for student financial aid assistance.

For the school year 2009-2010 financial aid funding totaled \$84,948,842, which was broken down as the following:

- PROMISE Scholarship - \$45 million
- Higher Education Grant - \$34,333,200
- Higher Education Adult Part-Time Student Grant - \$5.4 million
- Engineering, Science and Technology Scholarship - \$470,473
- Underwood-Smith Teacher Scholarship - \$141,142

Mr. Toney also highlighted the changes that were made to the PROMISE scholarship during this year's regular session under Senate Bill 373. One significant change to the



Education Subcommittee C - Public Education

PROMISE program was the abolishment of the PROMISE Scholarship Board. The program responsibilities are now in the hands of the HEPC. It also reconstituted a Higher Education Student Financial Aid Advisory Board.

The Higher Education Student Financial Aid Advisory Board will provide financial aid expertise and policy guidance on matters related to federal, state, and private student financial aid resources and programs. The first meeting was held last month.

There were also changes adopted during this year's regular session regarding state grant programs. Those changes include:

- Elimination of the application for state-level financial aid and using FAFSA instead. Those marking West Virginia as their legal residence will be considered for the Higher Education grant.
- Elimination of the point formula for high school graduates within five years of enrollment. Now a student is required to meet institutional admission standards and have a cumulative high school GPA of 2.0 or higher
- Elimination of the March 1 priority date for awards
- Elimination of the provision that awards at non-for-profit private institutions and for-profit private institutions shall not exceed the prior year average award at comparable institutions. This will allow for flat awards across all types of institutions for students with the same amount of financial need.

Mr. Toney briefly informed the committee of the changes to federal financial aid programs including a new tax credit for the 2009 tax year known as the American Opportunity Credit. This new credit modifies the existing HOPE Credit for tax years 2009 and 2010 and will make the HOPE Credit available to a broader range of taxpayers, including those with higher incomes and those who owe no tax. The amount of the credit is up to \$2,500 or which up to \$1,000 is refundable.

Public/Private Partnerships

Committee members heard from various speakers regarding the possibility public private partnerships of new school facilities throughout West Virginia.

First to speak was Mark Manchin, Executive Director of the School Building Authority on the needs of West Virginia's schools. He told the committee that there is a need in every county. Berkeley County alone has found that they need \$117 million. Manchin also told the committee that we are facing a critical state if we are not able to find more money. In order to curb this problem, Manchin told the committee that he wants to open up dialogue for the possible participation in public/private funding.

Rick Colebank, President of Alpha and Associates also spoke before the committee on the creation of sustainable education facilities through public private partnerships. These partnerships would mean that a private partner would own the school building, no cheap labor used, and would avoid too much time and cost, according to Colebank. He also told the committee that if this were to be done, a large percentage of current school would need to be closed because it is cheaper to build newer facilities than maintain older ones. Colebank also told the committee that public private partnerships have been successful in other states.

Mike Clowser, a member of the Contractors Association of West Virginia, told the committee that the Contractors Association is willing to listen but is still unsure about public private partnerships. He told the committee that in order to go forward with this idea, his group needed to look at what other states have done. Maryland switched to public private partnerships and a 2007 report showed that there were problems including no financial advantage to the buildings and contractors were under intense pressure to build schools.

The Contractors Association also told the committee that other issues to look at are how it will work, wages and whether or not the developer will give guarantees.

Interim Meeting Schedule & Agendas

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



A member of the Affiliated Construction Trades told the committee that he was a skeptic in this venture because he questions what the venture would bring to the table and who would pay in the end.

Finance Subcommittee A

Lawmakers heard a discussion regarding HCR 77, which requested a study of compensating state troopers for off duty time when they are required to be on standby to be called back to work.

A representative with the State Police provided information regarding their policies on this matter and answered questions from previous meetings for the committee. He stated that any time a trooper works over 40 hours in a week, hours over 40 are considered overtime and thus the trooper receives pay at the rate of time and a half for that time.

Work times start once a trooper enters the district he/she is assigned to so in the case of a trooper living outside that district, their time would not start until they reached their district. State Police employs roughly 653 troopers, 601 in the field and 52 in administration and 20 are currently deployed as part of their military duties. Troopers are considered to either be on duty, off duty or on stand by. He also stated that the State Police believe they are understaffed at the state crime lab and more funding could help that situation.

Forest Management Review Commission

A comparative analysis of the forest-products industry in the years 2005 and the first two quarters of 2009 was provided to lawmakers of the Forest Management Review Commission by the director of the Division of Forestry.

According to the findings, in 2005, mills consisting of more than 10 employees numbered 84. The numbers of employees totaled 3,246 and produced 1,076,800 square board feet. In 2009, the numbers of mills with 10 or more employ-

ees numbered 59, employed 1,986 people and produced 539,650 board feet during the first quarter of this year. During the second quarter of 2009, 59 mills continued to operate but the number of employees increased to 2,088 resulting in the production of 669,948 square board feet.

From 2005 to present, 11 mills were sold and the equipment removed and 14 mills shutdown with an uncertain future. The first quarter of 2009 saw 25 mills with reduced operating schedules and 34 indicating they experienced no change in their operating schedules. The data for the second quarter of 2009 noted that 30 mills reduced their operating schedules and 29 reported no change.

The Forestry director indicated an upswing in production of lumber from 2008 based on the numbers of building permits associated with the National Homebuilders Association. However, the price of red oak has plummeted while yellow poplar remains static.

General Counsel for the Department of Revenue also provided an overview of the timber severance tax to the committee. According to material provided by counsel, West Virginia has two timber severance taxes. There is the regular severance tax that provides tax credits benefiting the Division of Forestry - the 1.22 percent provided a \$1.2 million yield in FY 2009. The workers' compensation tax, which does not offer tax credits, put 2.78 percent of the severance revenue, an estimated \$3.3 million, into the Workers' Comp. debt.

The Manufacturing Investment Tax Credit (MITC) replaces the Industrial Expansion/Revitalization Credit. West Virginia manufacturers with NAICS class of 31, 32, or 33 are eligible for the MITC, which may offset up to 60 percent of tax liability. The credit also promotes manufacturing in West Virginia over shipping raw materials to other states.

A "slide show" of tables presented demonstrated the financial impacts on sawmill tax calculations if the credit was lifted or allowed. It's allowance indicated substantial savings for the sawmill industries.

The last presenter before the committee was the Secretary of Commerce who informed lawmakers of the state's efforts to market and expand the wood products industry.



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She said wood products are in the top 10 products exported by the state. Hardwood exports in 2006, 2007, and 2008 have consistently been worth around \$100 million each year.

The Development Office has worked very closely with the American Hardwood Export Council (AHEC) and the Hardwood States Export Group (HSEG) to promote the export of hardwood products, according to materials provided by the Secretary.

International efforts include trade shows at HSEG supported projects in Dubai, Shanghai, and India. Events planned in 2009-2010 by the HSEG include the Vietnam Wood Show, Furniture Manufacturing and Supply China Show, and the Business Matchmaking Mission, Turkey and Egypt, to name a few.

Domestic wood trade shows for the domestic markets have included the 2006 International Woodworking and Machinery Supply Fair in Atlanta, the 2007 Association of Woodworking and Furnishings Suppliers Fair in Las Vegas and the 2008 International Woodworking and Machinery Supply Fair in Atlanta.

A conference in Boston in September of this year, sponsored by the National Hardwood Lumbermen’s Association, will focus on ways to grow market share in the face of increased international competition.

In closing the Secretary provided initiatives and industry activities supported by the Department of Commerce. The list includes financial support for the Hardwood Alliance Zone (\$40,896 in the 2010 budget), the Governor’s Guaranteed WorkForce Program awards, WVEDA loan programs and severance tax relief.

Government Organization - Subcommittee A

The committee heard presentations regarding HCR 82 and HCR 46, which authorize a study of the Board of Optometry and a study of expanding the scope of practice for optometrists.

Dr. Stephen Powell, a Morgantown ophthalmologist gave his comments and advice to the committee regarding legislation that would change the scope of practice for optometrists. Currently, ophthalmologists are defined as surgeons that can perform surgery, give shots and prescribe medication. Currently optometrists cannot perform these procedures but would be able to under a new law.

If the proposed legislation passed, optometrists would be able to perform any learned procedure unless explicitly not allowed by their board. Only Oklahoma allows optometrists to perform these procedures. All other states have rejected similar legislation.

Ophthalmologists have eight years of post undergraduate experience in a 3-1 teacher to student ration while optometrists have four years of post undergraduate education and anywhere from a 10-1 to a 25-1 faculty to student ration. Ophthalmologists are board certified and are reassessed every 10 years, while optometrists are moving toward board certification but are not there yet.

The President of the West Virginia State Medical Association also opposes this scope of practice legislation. One of the reasons for this proposed legislation is that some say there is limited access to ophthalmologists in West Virginia. However the president pointed out that there is a certified ophthalmologist within 40 miles of everyone in West Virginia. He contends that if optometrists want to do surgery they need to go back to school and complete a residency or a fellowship like other doctors.

Government Organization - Subcommittee B

The committee heard discussion from the West Virginia University Public Administration Department regarding a graduate study of the West Virginia Public Employees Grievance Board. Students presented their research paper entitled defining the “Three R’s.”

The three “R’s” in this case were retaliation, retribution and reprisal. In order to provide a more consistent treatment of the concepts of retaliation and reprisal, they proposed add-



ing explicit definitions to the subsections of all pertinent areas within the Code to ensure greater employee protection across the board when reprisals or retaliation occur. Additionally they recommended that language and consequential actions in the pertinent sections of Code that stipulates punitive measures available to deter those who may engage in retaliation against aggrieved employees.

Another paper examining the process, administration and grievance abatement measures of the West Virginia Public Employees Grievance Board offered many recommendations ranging from the altering the allotted time for a grievant to file complaint to restitution of back pay for aggrieved personnel and a clarification of statutory language.

Government Organization - Subcommittee C

The committee heard discussion of HCR 80, which requests that the Joint Committee on Government and Finance study a “Pay As You Throw” system for waste management fees.

Pay-As-You-Throw (PAYT) basically takes trash service and regulates it as a utility. In communities with PAYT programs (also known as unit pricing or variable-rate pricing), residents are charged for the collection of ordinary household trash based on the amount they throw away. This creates a direct economic incentive to recycle more and to generate less waste.

Once a “unit” is defined (for example, a typical 32-gallon trash can), each can of service costs the same. Throwing out two cans per week costs twice as much as throwing out one can. Five-can service costs five times as much as one-can service, and so on. This creates a financial incentive for households and rewards those who reduce waste and recycle - the less you throw out, the less you pay.

The key to making PAYT work is providing opportunities for people to do something with their trash other than throwing it out. Waste reduction and recycling education programs, reuse facilities, expansion of curbside collection services,

and yard and other organic waste composting programs are all necessary to allow PAYT to flourish.

Communities with programs in place have reported significant increases in recycling and reductions in waste, due primarily to the waste reduction incentive created by PAYT. Less waste and more recycling mean that fewer natural resources need to be extracted.

In addition, greenhouse gas emissions associated with the manufacture, distribution, use, and subsequent disposal of products are reduced as a result of the increased recycling and waste reduction PAYT encourages. In this way, PAYT helps slow the buildup of greenhouse gases in the Earth’s atmosphere which leads to global climate change.

PAYT is an effective tool for communities struggling to cope with soaring municipal solid waste management expenses. Well-designed programs generate the revenues communities need to cover their solid waste costs, including the costs of such complementary programs as recycling and composting. Residents benefit, too, because they have the opportunity to take control of their trash bills.

One of the most important advantages of a variable-rate program may be its inherent fairness. When the cost of managing trash is hidden in taxes or charged at a flat rate, residents who recycle and prevent waste subsidize their neighbors’ wastefulness. Under PAYT, residents pay only for what they throw away.

The above points are all positives of the PAYT system outlined in the August interim meeting and highlighted by the Environmental Protection Agency. However, with any program, there is an opposing viewpoint. A speaker on behalf of the West Virginia Association of Recyclers noted that when you add recycling, you add to the cost of waste pick-up and a normal flat fee might be the best way to control that increased cost. Also, it was noted that in smaller West Virginia communities and more rural areas a PAYT system might not be realistic.

Illegal dumping has cropped up in about 20 percent in PAYT communities, according to a 2006 U.S. Environmental Protection Agency report. Data shows that homeowners



also sometimes try to beat the system by compacting huge amounts of trash into a single can or bag. Some critics say the new trash plan would be unfair to big families.

Health, Select Committee on

Ohio River Pharmaceuticals Pollution

The Select Committee on Health debated HCR 87, which requested a study of the disposal of pharmaceuticals and other hazardous materials. Lawmakers heard that the Ohio River Valley Water Sanitation Commission will conduct a study this year on how the disposal of prescription drugs is affecting the waterway’s water quality and aquatic life.

Ohio River Valley Water Sanitation Commission research manager Erich Emery told the Select Committee on Health that the study will look for a variety of prescription drugs. The drugs end up in the river after being flushed down toilets and passed through sewage treatment plants. He stated that a 2001 study detected signs of five separate hormones in the river. He says studies suggest concentrations of prescription drugs in the water can affect spawning habits. The committee is seeking a state study on this issue.

The committee also heard from Michael O’Neil representing the Center for the Education and Study of Drug Diversion and Substance Abuse regarding SCR 75, requesting a study of drug diversion and unintentional pharmaceutical overdoses. The West Virginia Controlled Substance Advisory Board Working Group was formed in 2007 to develop a well coordinated statewide approach to the substance abuse problems facing the state.

The working group provided some recommendations to the Select Committee on Health which included: Providing in-state education for local law enforcement investigation, reporting and prosecution of prescription drug activity; Promoting medical professional education in the professional school curricula regarding assessment and management of pain disorders, addiction and drug abuse with an emphasis on assessment, prescribing and monitoring; Promoting a state-wide public education campaign regarding the dangers of the “Sharing Culture of Prescription Drugs” at all

levels; and, public education on appropriate disposal of left over or unused medications.

The committee will continue to review these issues in the coming months.

LOCHHRA

Mountain Health Choices (MHC) Beneficiary Report

Members of the Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA) received a report from several researchers and professors from West Virginia University providing an explanation of the Mountain Health Choices Beneficiary Report.

The report details a survey sent to 4,000 Mountain Health Choice members of whom 3,400 represented children and 400 adults. Only 1,073 surveys were returned completed. Data gleaned from their research supports the idea that members are rationally choosing their MHC plan based on health needs. The survey also found that while members have the ability to interpret Bureau of Medical Services provided information many are still unfamiliar with the term “medical home” and are confused regarding their plans and choices. Over 26 percent did not know there are two plans and just over 24 percent know there are two plans but do not know which plan they are enrolled.

In general, the study found that offering a menu of additional benefits does not appear to be the decisive factor in deciding what plan to choose. The relevant group member segments under the plan include children, parents/guardians of children, adults using the basic plan and adults using the enhanced plan.

Children members were found to be healthier, less obese and more likely to exercise. They were more likely to enroll with no precipitating illness or accident and were less likely to identify a need for cholesterol screening or help in losing weight and more likely to want vaccines.

Parents/guardians of child members were more satisfied with MHC plans, more educated with fewer transportation



problems. They also tended to be more positive about the future with a greater belief that their actions matter.

Enhanced Plan members generally were more likely to have completed high school and are more satisfied with Medicaid than Basic plan members. They were more likely to have had prior insurance. In several areas this group differs greatly from the other three groups. They had a more negative future outlook and the worst reported health. They had a higher incidence of obesity and the highest utilization of health related services.

In the future, targeted communications should focus on different aspects for the Enhanced Plan members than for the other groups. Enhanced Plan members need more than four prescriptions and are obese, needing and desiring weight loss services. Messaging should focus on these two specific benefits with an eye toward remedying existing problems. The other groups should be targeted with an eye on choosing the best care for the children under their care, taking control of an individual's health care and preventing future problems.

Judiciary Subcommittee B

Autism

Committee members heard from various speakers regarding health insurance coverage for children with Autism during this month's interim meeting.

First to address the committee was Dr. Susannah Poe, Assistant Professor of Pediatrics at the West Virginia School of Medicine.

Dr. Poe told committee members that Applied Behavior Analysis (ABA) therapy is the only treatment known to be effective in the rehabilitation of children with autism. However, this type of treatment is difficult to find in the state and very expensive. Parents pay out of pocket between \$35,000 to \$50,000 a year for this treatment.

The ABA treatment approach teaches social, motor, and verbal behaviors as well as reasoning skills to children with

autism who may not otherwise pick up these behaviors on their own. This treatment can include several established teaching tools: discrete trial training, incidental teaching, pivotal response training, fluency building, and verbal behavior. Approximately 30 to 40 hours a week with one-on-one support is essential to a child's recovery. Dr. Poe told the committee that she has seen this treatment work and she also pointed out that 50 percent of children lose their autism through early detection. The important developmental years are between the ages of one and six. She also told the committee that autism is the fastest growing children's disease in the country yet very few insurance companies will cover the costs to treat these children. Other treatments are not effective and can cause regression.

Dr. Poe told the committee that she believes that insurance companies should cover the following for autistic patients:

- Initial diagnostic diagnosis
- Consultation
- Physical Therapy
- Pharmaceutical care

She ended by telling the committee that it is best to pay a little more now than later.

Next to speak to the committee was a pediatrician who has two children with autism. She is also one of two physicians in West Virginia who is a member of the "Defeat Autism Now" campaign whose goal it is to find, tests, and promote safe and effective treatments for a disorder that many medical professionals still consider untreatable. She also founded a center in Beckley to offer low-cost biomedical interventions for families of children with autism.

She told the committee that autism is a medical condition, not a mental health disorder and is diagnosed by a licensed physician. She also told them that it is treatable because new research is revealing that an underlying set of medical conditions may be responsible for some of the behaviors associated with autism. For these reasons, she did not understand why insurance claims are automatically denied if an autism billing code is used.

The pediatrician told the committee that she feels that lab tests, consultations and office visits for autism should be



reimbursed under insurance plans because they are valuable and necessary to customize the treatment plans.

A number of parents whose children have autism addressed the committee, telling them that ABA treatment and early intervention really does help and for that their children are leading normal lives.

Counsel for PEIA told the committee that numbers were calculated using the stipulations in proposed legislation during this regular session, which would have provided full coverage for children with autism. The bill would cover children’s ages 2-15 and put a cap of \$50,000 on each child. There are approximately 28,000 children with autism so additional cost to the insurance plan the first year out would be \$9.6 million. He also told the committee that the board is concerned about medical inflation and also that the treatments mentioned are not evidence based.

Minority Issues, Select Committee on

HB 2950

This month, committee members were updated by the Executive Director of the West Virginia Housing Development Fund on the implementation of House Bill 2950, which was passed during this year’s regular session.

House Bill 2950 created the Neighborhood Housing and Economic Stabilization Program and authorizes the Economic Development Authority to contract with the Housing Development Fund in order to administer the program. The program provides loans, grants and forgivable loans to support and carry out local economic development initiatives as well as locally designed housing initiatives and in minority census tracts with low-income demographics in the state. Funding for the program is \$2.4 million, which would be transferred from the Economic Development Project Bridge Loan Fund.

The Executive Director told the committee that those non-profits eligible to receive funding had to provide some sort of job training program. He also told the committee that the organizations could begin submitting their request for a

proposal this month. After that, the Housing Development Fund will begin making appropriations immediately as long as the non-profits’ licenses are in good standing and have matching loans from other areas. They must also know what houses they want to work on with the funds they receive before they can spend the money.

The Executive Director also informed the committee that the funds dispersed are not grants but performance loans. If it is found that the non-profits receiving funding are using it correctly, they will be given loan forgiveness. This type of program has been used before, the Executive Director said, and the state gets a return every time.

Those areas qualifying for a share of the \$2.4 million must have a minority population of at least 20 percent, and meet the income standard of the 40 percent of West Virginians earning below 80 percent of the median income. Those areas with a 15 percent minority population, and 50 percent below 80 percent of the average annual income also qualify. “We also want to serve those people that have a high portion of poor folks, but not necessarily minority people,” the Executive Director said. He also said that the Housing Development Fund would not tell a non-profit that they cannot apply, however they must look at the definition in the legislation of the criteria for distressed areas. Ten counties currently meet those definitions.

There is no maximum amount that a non-profit can receive, the Executive Director said. He also said that municipal housing agencies do not qualify for the loans.

The committee also heard from a member of the Minority Contractors Association of West Virginia (MCAWV). The goal of the MCAWV is to expand opportunities, promote quality and provide support for minority-owned businesses across the state. She told the committee that the first thing that needs to be done is to educate everyone on what a true minority business really is.

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.



Parks, Recreation & Natural Resources Subcommittee

Black Bear Monitoring and Research Project

Chris Ryan, field research supervisor for the DNR Wildlife Resources Section discussed recent developments in the Black Bear Monitoring and Research Project. He has recently overseen a black bear population dynamics study throughout the state in which 80 bears have been collared and monitored for their location using a tracking device.

He has also looked at resident surveys and monitored bear complaints statewide. According to Ryan, the DNR gets approximately 1,000-1,100 bear complaints per year. The surveys show that most state residents want the bear population to stay the same while some in the southern coalfields want the bear population decreased. The bear population in the southern part of the state has steadily increased because of the mild winters and ample food supply in that region.

West Virginia has some of the most liberal bear hunting laws in the country, yet the bear population has stayed steady. After monitoring bear movements, Ryan concluded that the population is steady or climbing in southern West Virginia due to the fact that many bears stay in areas around strip mines that are closed off to hunters.

Regional Jail & Correctional Facility Authority

Policy Issues Resolution

This month, committee members took up for consideration a proposed resolution that would call for the study of policy issues behind the length of stay of offenders sent to prison, including possible statutory changes to parole eligibility. The resolution also calls for the examination of the West Virginia Criminal Code to address societal expectations, norms and fiscal capacity.

The resolution was taken up for immediate consideration and all members present voted in favor of passage. A copy of the resolution was sent to the Committee on Government and Finance for further consideration.

County Commissioners on Regional Jail Bills

Kanawha County Commissioner, Kent Carper, spoke to committee members regarding the regional jail costs to counties. According to Carper, a sizable portion of Kanawha’s budget goes to the \$5 million annual jail bill. Magistrate court fees provide some financial assistance to help counties pay regional jail fees, but Carper told the committee that the actual collection of the fees has gone down. “Counties need an infusion of cash,” he said. A possible consideration he provided the committee was a tax on beer, wine and liquor in order to provide more funding for counties.

The Cabell County Administrator also addressed the committee on the large jail bill the county has to pay each year. In Cabell, the jail bill is about 18 percent of its overall budget, which is approximately \$3 million. Like Kanawha, Cabell County has seen a reduction in magistrate fees that usually help pay the large bill. The Administrator told the committee that a possible reason for the collection of magistrate court fees has gone down is because police officers may be opting for more warnings and magistrates dismissing more cases because the fee on a single citation is \$160. In the past four years, fines and fees have decrease by \$200,000 in Cabell.

LOCWIED

Unemployment Benefits

The Legislative Oversight Commission on Workforce Investment for Economic Development (LOCWIED) heard a discussion from the acting director of WorkForce West Virginia, Russell Fry, telling them that out-of-work residents could receive 20 additional weeks of federally funded unemployment benefits if lawmakers approve an adjustment changing the formula used to calculate the unemployment rate to match the federal formula.

The Legislative Oversight Commission was told that this change would affect about 14,600 people. At the time of the meeting, the lawmakers were informed that around 2,600 people have exhausted their benefits, and another 12,000 will do so by the end of the year.



Under previous state law, unemployed workers qualified for 26 weeks of unemployment benefits paid from the state's unemployment trust fund. When they have exhausted those benefits, they can qualify for another 33 weeks of unemployment benefits from the Federal Unemployment Compensation Fund.

Under the American Recovery and Reinvestment Act (ARRA) the federal government has made available another 20 weeks of unemployment benefits. That would make for a total of 79 weeks of unemployment benefits with 53 of those weeks paid by the federal government.

Lawmakers on the commission were told that to qualify, the Legislature would need to change the unemployment rate formula. The Director told the Commission the state uses what's called the insured unemployment rate. That's figured as a percentage of unemployed workers receiving regular benefits compared to the total of state workers who are covered by their employers for unemployment benefits. That figure stands at 4.4 percent.

To qualify the Legislature must adopt the federal rate formula, which considers the total unemployment rate. That is the percentage of all unemployed people, receiving benefits or not, compared to the entire state labor force. That figure is 8.4 percent.

The extended benefits would be retroactive to the passage of the stimulus act in February. Most workers hadn't exhausted their emergency benefits until July and they would be eligible for the 20 extra weeks. Also, AARA allows states the choice of reverting to their original unemployment rate formula once stimulus funds dry up. ▲

**Interim
Committee
Meetings
2009**

August 10-12
September 14-16
October 13-15
November 17-19
December 7-9

Dates subject to change.

January 10-12 2010

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.

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