



INTERIM HIGHLIGHTS

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

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Agriculture and Agribusiness Subcommittee

Spay and Neuter Program

Lawmakers on this joint legislative interim committee were warned that given the strong ability of feral cats and dogs to breed, in three short years there could be 25 million of these animals in West Virginia.

A representative of the Federation of Humane Organizations of West Virginia told a panel of lawmakers only 35 percent of the 427,000 dogs alone in households are unaltered. A solution, however, may be contained in a proposed spay-neuter program.

She told the committee that West Virginians shell out some \$150 million a year for pet food, and her group is proposing an increase in the permit fee imposed on suppliers to finance a spay/neuter program. Maine used a similar program and idea and generated some \$100,000 annually to help low-income residents have their pets “fixed” to prevent unwanted offspring. The cost per household came to a mere 59 cents a year.

Another representative told the committee that she learned after surveying 20 counties that they spent a combined \$3 million into dealing with a surplus of dogs and cats. Considering her survey, she said the average county runs up a \$150,000 bill to care for stray animals, or \$8 million statewide. In Greenbrier County alone, taxpayers are being hit for \$170,000 annually, and of 3,000 animals that wandered into that region, only 580 were adopted.

According to the group, other potential sources of income to finance a spay/neuter program simply aren't reliable, such as an income tax checkoff or a rabies vaccination surcharge.

Similarly, raising the dog license which has stood at \$3 since the 1940s is impractical, since many owners don't bother to get one.

A Deputy Agriculture Commissioner agreed that feral cats are a major nuisance in metropolitan areas, not so much in rural areas since other predators, such as coyotes, will eat them.

Finally, the first representative stated that a year ago some 144,000 animals wound up in shelters and 77,000 were put down, including many that were healthy. Millions of dollars are spent each year in West Virginia to impound, care and kill dogs and cats. She said it would be much more efficient to spend the money to prevent the problem, rather than deal with the aftermath of all the unwanted dogs and cats.

LOCEA

State Superintendent's Report (9/11)

The State Superintendent of West Virginia schools told committee members that the Department of Education is looking into reorganizing the agency into outcome-based divisions. Currently, divisions in the department are determined based on the funding source each division receives. This decision was decided after the education audit, which was released months ago, recommended



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better organization within department. This is a step in the goal of the Department of Education becoming more accountable for the success of the state's students.

The Superintendent also told the committee about two grants the department is applying for. One, which has already been submitted, is for \$4.2 million and would go to more personalized learning for students. The funding would provide tools necessary to teachers and schools to meet a child's individual needs. It would also help teacher personalize education opportunities.

The second grant, which is still being worked on, is a benedum grant in the amount of \$3.2 million. This grant would focus on early learners, Pre-k through 2nd grade. The funding would build informative assessment tools to these teachers and other stakeholders at these grade levels.

The eventual goal is to have a profile of children from their first year of school until they graduate high school. Huge progress has been made in early education here in the state and we are leading the nation in pre-k education. Through this early learning, our children are ready to transition to the education changes that begin in 4th grade.

With the 7.4 percent cuts in state agency funding, schools are affected too. The reduction in funding will remove innovation zones, alternative education, critical skills programs, and more. The Superintendent stressed to the committee how important it is to remember that this 7.4 percent reduction will have this adverse effect on the students and she would welcome the return of this funding.

Also of most importance to our schools is technology, which the Superintendent said is fundamental in learning. TechSteps has been a beneficial tool in helping teachers use technology in the classroom. It is a technology education curriculum and assessment tool that easily and effectively infuses technology skills into core instruction, promoting core subject area outcomes while also teaching skills for 21st Century success to provide technology, schools must have effective bandwidth. This is an issue that the Superintendent has also told the State Board of Education focus needs to be paid to.

The Superintendent told the committee that the Board of Education asked her to give her vital issues they need to be focusing on. Apart from better bandwidth in the schools she added:

- **Balanced calendar:** Spread out the days instead of the continuing long summer break where some of the students have had a lull in learning. Many have not picked up a book during this break and others went hungry at times.
- **Moving to 24/7 learning:** The idea is that learning can occur anywhere and at any time.
- **Accreditation of schools:** Moving away from focusing solely on low performing schools. Acknowledgement of those schools that are high performing.
- **Organization and management of school systems** at the local level-enrollment continues to decline in rural counties, can deliver services to these counties who do not have excess levies. Have to provide a broad curriculum
- **Professional development for our teachers;** provide teachers with the time they need to provide proper instruction



Education Subcommittee A

Student Athlete Safety

Committee members heard from various speakers regarding interscholastic student athletic safety during September’s meeting.

First to address the committee was the Director of Holzer Clinic Sports Medicine Services who has worked with all different levels of athletes in her career from high school to professional level sports.

The Director told the committee that she has seen firsthand what happens when parents and coaches are unaware of signs and symptoms of injuries athletes can receive. She attended a high school football game when after the game a player collapsed after the game. The player had received a hard hit during the game but then went out later on to play again where he received another hit. He collapsed and died later on from a brain aneurism. The director told the committee that in this player’s case he died from second-impact syndrome (SIS).

SIS is the most serious potential complication that could result from an athlete returning to a game before symptoms from a minor head injury have subsided. Symptoms include headache, cognitive difficulties, or visual changes.

After witnessing the athlete die from SIS the Director has dedicated her work in honor of him ever since. She also told the committee that the biggest problem is that every school thinks this won’t happen at their school. The truth is it can happen anywhere, especially at the junior high school level.

The Director said that legislation can help make sure student athletes receive the proper care and attention after sustaining any injury during a game. One way this can be done is by cracking down on certain hits allowed in some sports. For example, penalties are now in place for “spearing” in football which has decreased the numbers of neck injuries fourfold. Another way to help is making sure that all school facilities have access to local care.

Many of West Virginia’s schools are so rural that immediate access to hospitals, ambulance services, and even cell service is minimal. A land line should be readily accessible in case of an emergency. Practice and training of staff at these games regarding the head and neck, heat, spine boarding out of stands, and other emergencies should also be implemented to provide more immediate and effective care to not only students but also to fans as well. Lastly, the Director told the committee that information on concussions should be posted throughout every school in the state. It should include signs and symptoms of a concussion and what care one should receive when they suffer one.

The Assistant Director of the WV Secondary Schools Activities Commission told the committee that the Commission is stepping up to the plate when it comes to educating those in school sports about head injuries and treatment. All head coaches in West Virginia are now required to take a free national course in concussions to learn the signs and symptoms. The Assistant Director said this is the first year the course is required, and next year the state may require assistant coaches to take the course as well. It is important that all coaches are educated on concussions because football is not the only sport that concussions can occur. While football does



have the most concussions, girls soccer has the second highest number.

Student athletes must now also note on their physical forms whether they have ever suffered from a concussion. The SSAC is also looking in to track the number of concussions documented around the state during the school year.

A doctor with the Lincoln County Primary Care Center who has extensive knowledge of experience when it comes to taking care of student athletes on and off the field also discussed the issue of athlete safety.

While the doctor agreed with many of the recommendations brought forth by the previous speaker, he did inform lawmakers that counties in the state vary and it is important that each county be responsible for creating their own emergency action plan.

He also noted that interscholastic activity has been ahead of the NFL in concussion awareness due to the adoption of many recommendations from the National Federation.

Last to address the committee was a representative with the West Virginia Athletic Trainers Association who also echoed the opinions of the other speakers regarding the creation of emergency action plans and enhanced student athlete reporting of injuries to get a better handle on what needs to be done to prevent these types of injuries.

Education Subcommittee C - Judicial Issues

Truancy

A subcommittee dealing with truancy issues in West Virginia public schools heard that more than one-third of West Virginia students, or 108,000 children, had at least five unexcused absences during the last school year, according to figures provided Monday by the state Department of Education. Of those students, 48,768 had 10 or more such absences.

The subcommittee heard from a Circuit Judge from Barbour and Taylor counties who stated he saw half of students in that area miss at least 10 days during the 2009-2010 school year. He offered his courtroom experiences as part of a joint effort by himself and Supreme Court Justice Robin Davis to tackle truancy in West Virginia.

He stated that students with this many absences become more at risk of dropping out as they fall further behind in class, potentially slowing progress for other students whenever teachers try to help them catch up. He said 34,547 students dropped out of West Virginia schools during the opening decade of this century. Without the skills to find jobs in the modern economy, dropouts pose a huge threat to West Virginia's future, he said.

He also said that through the years the names and faces may change but the parents summoned to his courtroom to explain their children's truancy offer the same, weak excuses. Among excuses he hears was 'I just didn't get them up. I didn't get up out of bed. I don't work, but I didn't get up. I stay up late watching TV. I just don't get up out of bed.' The parents also frequently allege that they sent in a written excuse to explain an absence, but

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their child failed to deliver it, and the child often will deny this.

Further, he stated. Citing figures from the Mattie C. Stewart Foundation, a nonprofit organization dedicated to reducing the dropout rate, that three-fourths of the nation's prison inmates are high school dropouts. The judge also said that drug abuse plays a major role in this overall crisis, with dropouts turning to crime to support their addictions. That part of the problem is not limited to older youth and young adults, he said.

Back to his district the judge stated that nine out of 10 of Barbour County's dropouts during the 2011-2012 budget year had at least one parent who had also dropped out. As such, the judge stated that the problem is multigenerational, and it's not easily changing. The judge said these parents often will become bitter about school, and that influences their children.

A final point the judge made, he cited the West Virginia Constitution which mandates "a thorough and efficient system of free schools." The judge stated, "Nobody has the right to deny a child of that constitutional right."

Equal Pay Commission

Commission members passed a revised version of a bill to establish the Office of Equal Pay Coordinator within the Division of Personnel. This position would spearhead efforts to establish a strong policy to better deal with the pay inequities in the state.

Finance Subcommittee C

Boy Scouts Tour

Members and staff of the Finance Subcommittee C continued discussion from last month regarding a possible broadening of the Scouts' tax-exempt status that would let the facility be used year-round for other activities outside their normal scope.

Even though not all the construction work is complete, visitors could envision the grand scheme of what is officially known as the Summit Bechtel Family Boy Scout Reserve. The complex, once finished, will host a national jamboree next summer, luring in thousands of visitors.

Among features which were touted by the scout officials were the three lakes they are building, the zip line and BMX parks and a water system which will recycle water for showers and the attendant sanitation process.

Officials also focused on the healthy lifestyles and respect for the environment which are trademarks in the Boy Scouts organization.

While actively advocating for the tax exempt status change, a representative maintained that the organization would continue with its plans at the complex, regardless of how the bill fares next winter.

This past regular session, the tax-exempt proposal, which calls for a Constitutional amendment on the next election ballot, cleared the Senate but died in the House of Delegates.



Lawmakers and staff in attendance went to an overlook and were able to look at a panoramic view of the roughly 1,000 acres being worked on right now. They could see much of the infrastructure being worked on, including the 80,000 seat amphitheater.

Joint Government Operations/ Government Organization Committee

Abandoned Oil and Gas Wells

Members of this joint committee heard a report related to the Department of Environmental Protection office assigned to oversee abandoned oil and gas well. The report stated that the Office of Oil and Gas in the DEP is falling behind with inspections and regulatory enforcement.

According to the report, legislative auditors counted around 13,000 abandoned wells, out of 110,693 well tracked by the Office of Oil and Gas in its vast database. The office can't identify who last operated 5,800 abandoned wells, while the operators of another 4,700 of them have not committed to plugging the well or restarting them within 10 years.

The data lists wells in all but five of West Virginia's 55 counties. Ritchie County had the most, at nearly 1,600 abandoned wells. State law requires operators to cap a well that's dry or unused for at least 12 consecutive months, unless they can show a future use for the well. However, the legislative analyst for the Performance Evaluation and Research Division said that law is not being enforced. Just 34 wells are exempted from the

plugging requirement because of their potential future use.

The database cannot prompt alerts for wells that don't post production figures after 12 months. A random sample from its records show that 53 percent of the abandoned wells checked were idle for at least five years, while 43 percent had sat unused for at least 10.

The audit report also found that inspectors weren't visiting abandoned wells, a number of which are in hard-to-reach locations. Collectively, uninspected wells pose significant risks to public health and the environment.

In it's response, a representative for the Office of Oil and Gas agreed the database should flag idled wells and said his staff will pursue that as well as updates to its website also called for by the audit report. He faulted under staffing and under funding issues for much of the audit's findings.

He added that lawmakers remedied that somewhat late last year, with the passage of rules for Marcellus shale natural gas drilling that included permit fees meant to fund the hiring of additional inspectors and office staff.

Judiciary Subcommittee A

Freedom of Information Act (FOIA)

A representative for the West Virginia Press Association and a Charleston lawyer who specializes in FOIA law spoke to this legislative interim committee regarding if changes need to be made to the West Virginia's FOIA law.



Under the FOIA law, a government official or agency must acknowledge a request for information within five working days, but it can take an unspecified time to get it into the hands of a person requesting it.

Both speakers agreed that they felt West Virginia already has a very strong FOIA law similar to federal standards and for the most part, should be left alone. Only one minor change was suggested to further clarify governmental emails and what can or cannot be requested as well as maybe inserting some provision to compel agencies to respond to FOIA request quicker.

No action was taken by the committee at this time and they will continue to study the matter further.

Judiciary Subcommittee B

Medical Records Fees

The committee heard from a number of representatives regarding the continuing dialog of House Bill 4301, which was introduced during this year's regular session. The bill related to the reimbursement of medical records copies.

A number of experts were on hand to discuss the costs of medical records copies. First to speak was a representative with Thomas Health System who told the committee that it was important to understand the complexities of medical records.

Medical records are in various formats. Some could be in electronic form while others may still be paper records. This becomes a lot of paperwork and research which can be a lengthy process. Going to an entirely electronic

system is a pricey one but is an option. Technology to record management at a speedy rate is making it difficult for the medical records workforce to keep up.

Information that is included in a patient's medical records is a reservoir of information about the patient and the treatment they have received. It includes medical judgments, testing the patient received, and a database of each patient's care they received. These records also document all communication between the attending physician, consulting physician, and nurses who provided care to the patient. Statistical data is included in the record as well as institutional evaluation.

When the care a patient receives is called into question, the medical record is the primary document on care rendered.

With all of these documents included in a person's medical records, the representative told the committee that the research and pages per request is astronomical. During July 1 to August 31, Thomas Hospital had 1,061 requests for medical records, with 99,154 pages processed. In this period, St. Francis had 657 requests with 76,275 pages process and St. Francis Hospital Pain Center received 810 requests with 11,439 pages processed.

The representative told the committee that various groups request these records such as a continuing care facility, insurance companies, patients themselves, attorneys for litigation purposes, workers compensation, auditors of hospitals, West Virginia Medical Institute, and other government agencies.

Collecting and putting together an individual is a multifaceted process and is not an easy one according



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to the representative. He also added that the country is in the midst of the greatest transformation in medical record technology. However, right now we are in the middle of a paper and electronic age.

State and Federal law allows each page of a medical record be billed at 75 cents. In some instances medical records are provided at no charge to some who request these records.

The committee asked the representative why it is taking longer and costing more to get these records. The representative stated that today's populations are living much longer and records used to be just a couple of pages. Advancements in the imaging of tests add more to these records as well.

An attorney who is also with the West Virginia State Medical Association told the committee that medical records are an internal complexity from a legal perspective.

The keeping and handling of medical records has been governed by Health Insurance Portability Accountability Act (HIPAA) since 2003. Before HIPAA, there was a patchwork of state laws regarding these records. HIPAA protects the patient's information and decides what can be charged for these records.

The attorney told the committee that West Virginia Code 16-29-1 states that any health provider is required to furnish medical records under a reasonable time. However, psychiatric records and in some cases minors' records do not have to be released. State Code also places a \$10 processing fee for each records and no more than 75 cents per page of the record. Federal law has

established that 75 cents per page is a reasonable fee.

Under the new health reform law, federal, the patients has a right to look at their actual record and that they have a right to an electronic record. Details of how it's going to be provided under the new federal law are unclear.

The attorney stated that the focus needs to be on simplifying the process of obtaining medical records for all parties involved. He believes that to figure out how to distribute the records, federal law needs to be looked at for guidance.

A representative with the West Virginia Association for Justice told members that the association had drafted House Bill 4301 after 500 attorneys in the state brought to their attention how costly these medical records can be. Most of the attorneys who contacted the association worked mainly on workers compensation cases which medical records are vital.

Since 1990 75 cents has been cap per page in West Virginia. There was no formula used to come up with this cost. To combat the hefty price of these records the representative suggested charging for first few hundred pages only of a medical record or lowering the cost per page if the one requesting is the patient or a representative for the patient.

CEO of WV Healthcare Association told committee members that nursing homes are different when it comes to how much they can charge for medical records. Under rule they are capped at 25 cents per page, which according to the CEO is an unreasonably low price. This is because most of the patients in nursing homes stay there for



years which over time add up to thousands or records collected. The CEO added that most of the time nursing homes don't charge patients or their representatives for small records but larger files only.

Judiciary Subcommittee C

Involuntary Commitment Process

Mental hygiene hearings in the state are not just taking place in jails and county courthouses as is normally intended, they are also being held in hospital emergency rooms.

Many of the patients being considered for involuntary commitment are taken unnecessarily to hospitals, even during business hours when the courthouse is open, contributing to overcrowding and delays in already overtaxed emergency departments, according to a CAMC lawyer that spoke to the committee.

Since June, 121 mental hygiene applications were filed at CAMC General Hospital's emergency room, according to the attorney. The numbers exclude drug overdose and suicide patients. Some involuntary commitment patients arrived at night after courthouses closed, but many others were brought in during regular business hours. CAMC was forced to host 50 involuntary commitment hearings in the emergency room from June 1 to August 31 according to the attorney.

Federal law requires hospitals to provide treatment to anyone who shows up at emergency rooms. The hospital must determine whether the patient has an emergency medical condition.

Since June, only three patients who came to CAMC General for involuntary commitment have had a physical illness that required treatment and stabilization.

In a few cases, the patient actually has a medical condition that needs treatment according to the attorney but often this medical condition only serves to slow down the mental hygiene process and contribute to the patient's length of stay in the emergency department setting.

Mental hygiene patients stayed in CAMC General Hospital's emergency room for 16.6 hours on average during their involuntary commitment hearings in July. The average stay lasted 12 hours last month.

Thomas Memorial Hospital in South Charleston and Cabell-Huntington Hospital are struggling with the same problem, according to the attorney's report Thomas Hospital held 19 mental hygiene hearings in its emergency room from June 1 through August 31.

The attorney suggested that the state establish separate sites where mental hygiene patients could go for medical screenings. She said involuntary commitment patients should receive screenings at behavioral health centers, not at hospital emergency departments. The attorney sees a need for 24 hour mental hygiene centers.

Also in the meeting, CEO of Huntington-based Pretera Mental Health Services, told lawmakers that the behavior health provider is working with hospitals to alleviate emergency room overcrowding.

Pretera has provided training to emergency room personnel, the CEO said. The Huntington nonprofit



also has worked closely with “frequent fliers” -- mental health patients who make frequent trips to the emergency department. Prester also plans to open a “therapeutic living room” -- a place where mental health patients can go at night.

The chair of the West Virginia Mental Health Planning Council, told committee members that the state must do more to help people before they reach “crisis stage.” “Meet them where they are and treat them where they are,” she said.

More than 7,000 mental hygiene cases were filed in West Virginia last year, but people were committed to mental institutions in only about half of those cases.

Regional Jails and Correctional Facility Authority

Agency Updating/Corrections Staff

Apart from receiving monthly agency reports from the Division of Corrections, the Regional Jail Authority and the Division of Juveniles, committee members heard from various representatives regarding a number of issues.

As a follow-up from last month’s meeting, committee members heard from a representative with the AFL-CIO regarding the effects overcrowding is having on corrections officers and other support staff.

The AFL-CIO representative told the committee that low retention rates for corrections officers is a result of low pay and a long strenuous work schedule. Many officers work long shifts and then travel long distances

back to their homes, leaving very little family time for these officers. The representative told the committee that when she talks to these officers and other staff, they are tired of having studies done and want something done.

Next to address the committee was a representative with the Council of State Government’s Justice Center who gave a brief explanation of a study that will be presented to the Regional Jails committee next month regarding the state’s prison overcrowding issue. The Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. According to their website, the Justice Center deals in areas where criminal justice system intersects with other disciplines, such as public health to provide practical solutions to public safety and cross-systems problems. The report, which is data driven, will provide complete analysis of West Virginia criminal justice system and will hopefully help in creating possible legislation for the 2013 regular session.

Last to address the committee was the Cabinet Secretary for the West Virginia Division of Military Affairs who gave some insight on areas needing to be emphasized when it comes to prison overcrowding. One issue is that no facility has never hit 100 percent capacity in staffing which makes it even more difficult when the retention rate of corrections officers is very low. Pay is another problem as state facilities lose many of their trained staff to the federal facilities located in the state who can pay more. The Cabinet Secretary also told the committee that a working group involving members from all three branches of government is essential and the initial group formed failed to stay together. Reinstating this



group would be crucial in combating the overcrowding problem.

Possible solutions in relieving the current overcrowding problem includes: expanding work release programs, out-of-state placement which could relieve population by 400, and create more treatment programs for inmates to curb the number of repeat offenders entering West Virginia's prisons and jails.

Questions were raised by many committee members regarding a recording device that was found in one of West Virginia's jails. Both the Cabinet Secretary and the Director of the Regional Jail Authority would not comment on this matter because it was a personnel issue. The Cabinet Secretary told the committee that he was unaware at this time of any internal or external investigations taking place. The Director of the Regional Jail Authority reciprocated the Cabinet Secretary's response.

**Joint Meeting -
LOCWI/Minority Issues**

Dr. Carolyn Stuart, a McDowell County native with a background in social service, was formally introduced to this joint committee. She will serve as Executive Director of the Herbert Henderson Office of Minority Affairs.

After trying each year since 2008, the Legislature passed a bill this year creating the minority affairs office as a new cabinet-level office designed to research, make recommendations and oversee programs affecting minority groups.

The state already has several minority affairs programs, but the new office will oversee them. Supporters said it would serve as the central repository for all information, data, questions and solutions related to minority issues.

Stuart earned a master's degree in counseling from Marshall University, and a doctorate in counseling education from Virginia Tech. She has worked at jobs in higher education, counseling, project development, mediation and consulting in the area of cultural diversity over the course of her career.

Stuart said the office is designed to assist not just racial or ethnic minorities, but anyone who thinks they've been denied a voice or access to opportunities in society.

Also in this joint meeting, a Charleston minister gave a presentation on issues regarding economic development, education and poverty in the state. He began by noting that the state has the lowest workforce participation in the country (less than 55 percent) and has for decades. He called the state's prison overcrowding and prescription drug abuse problems a pandemic.

Counting those on parole and probation, he said, some 23,800 West Virginia residents are embroiled in the justice system. The minister added that the dropout issue is exacerbating the problem, along with a loss of jobs, partly because of fewer manufacturing jobs and higher standards that have kept many out of the military. He believes the low skill, high pay jobs that were once plentiful through the chemical and coal industry are gone forever. He told the committee this naturally leads to an abundance of young and middle aged people that are undereducated, underskilled and unemployed.



He went on to say that America’s military ranks fell from 3.5 million during the Vietnam War in 1968 to 1.5 million today, albeit the nation’s overall population added 80 million people. Mix in the outsourcing of jobs and dwindling manufacturing and there has been a surplus in the labor force.

The minister also noted various other factors contributing to the state’s poor economic conditions:

- Aging population
- Lack of general wellness
- Poor retention rate of our skilled college graduates
- Crisis of high school dropouts and low-skill graduates
- Lowest percentage of college graduates
- Lack of access to the military as a high school drop out
- Loss of manufacturing jobs
- Not enough drug-free workers, leading to no jobs and decreased tax revenues.

**Interim Committee Meetings
2012/ 2013**

September	10 - 12, 2012
October	8 - 10, 2012
November	26 - 28, 2012
December	10 - 12, 2012
January	7 - 9, 2013
February	10 - 12, 2013

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