

Interim Highlights

Agriculture & Agri-business

December

A representative from the Division of Natural Resources (DNR) addressed the agriculture and agribusiness committee on steps toward limiting Chronic Wasting Disease (CWD), a fatal, neurological disorder, since the state found its first infected deer in Hampshire County in September.

The meeting began with a 12-minute DVD provided by the National Wildlife Federation depicting staged kills of drugged and dying deer for the benefit of well-heeled shooters at a hunting preserve in Indiana. One animal struggling to walk was propped up in a thicket for a kill that cost the shooter several thousand dollars.

On the brief film, a representative stated that anti-hunting groups are using such evidence to fuel sentiment against legitimate hunters. The illegal practices shown on the documentary led to the owner being fined \$500,000 and jailed for numerous violations.

Officials are concerned that the loose regulations and some industry practices at hunting preserves may make wild herds more vulnerable to CWD.

Since it was first discovered in a road-kill deer in Hampshire County, a controlled hunt yielded four more cases of the disease, all within seven miles of where the first deer was found. Hunters volunteered 1,000 samples from deer killed during the recent firearms season. One-fourth of the samples have been tested so far, and all were negative for the disease.

The DNR representative emphasized that the state must weigh the interests of 350,000 deer hunters against those of a handful of private deer farms when discussing how to contain Chronic Wasting Disease.

Some of the content dealt with fears over CWD, with Preston saying captive deer have been shown to be a source of the mystical disorder.

The DNR representative reiterated that neither he nor the DNR was attempting to imply such unethical and illegal practices by hunters occurred in West Virginia. Also, neither he nor the DNR itself wants to regulate deer farming so it would go out of business in West Virginia.

The DNR has said there is no evidence chronic wasting disease can affect humans, but it advises against eating the brains. Also, currently there is no evidence it can be transferred to livestock but there is much more that needs to be known until the DNR can be certain.

Alternative Education Subcommittee

December

Legislators convened to review the draft version of the subcommittee's final report, which will include a review of the issues they studied throughout the year and any legislative recommendations.

The findings in the report include data on the number of students removed from the classroom for disciplinary infractions; information regarding the enforcement of discipline in public schools; the educational status of students referred to juvenile probation; a review of programs aimed at keeping students in school and early intervention; a county needs assessment for alternative education programs; data on school counselors; and, input from school employee organizations.

Since the conclusions portion of the draft report did not include any concrete recommendations, committee members were asked to submit their recommendations before the January meeting, at which time the final report will be presented and considered for a vote.

Education Subcommittee A - Higher Education

November

The Vice Chancellor for Administration of the Higher Education Policy Commission (HEPC) provided lawmakers with a report from HEPC and the Council for Community and Technical College Education (CCTCE) regarding the fundamentals of administrative rulemaking and state requirements on institutions.

As defined in State Code, a rule is "any regulation, guideline, directive, standard, statement of policy or interpretation of general application which has institution-wide effect or which affects the rights, privileges or interests of employees, students or citizens." According to the speaker, when ad-

ministrative agencies are permitted to make rules and settle disputes, the appropriate checks and balances are in place and agencies can use their subject matter expertise.

The institutional rulemaking process first requires HEPC or CCTCE to file a public notice of intent to adopt or amend a rule, file the proposal with the Secretary of State and post rules on the appropriate Web site. With the exception of emergency rules, the agency then must provide for a comment period for at least 30 days and may provide additional comment opportunities, such as public hearings. The agency then is required to approve the rule in an open public meeting, with notice of the meeting provided at least five days in advance.

The process also allows for judicial review. A rule can be challenged in court for violating either the United States or West Virginia Constitution, state substantive law or state procedural law.

General counsel from HEPC then provided the committee with an overview of the state requirements for institutional rulemaking. In 2001, the Legislature passed Senate Bill 703, which dealt with the transition in governance in higher education. The measure allowed HEPC to transfer rules to the jurisdiction of the new institutional boards of governors and authorized HEPC to promulgate a rule governing the future adoption of rules, guidelines and policy statements by the governing boards.

He provided lawmakers with handouts detailing the mandated rules for specific subjects and whether institutions have adopted the rules or are in the process of doing so.

December

Charged with reviewing current funding models for the state's Community and Technical College System, a representative from the WV Council for Community and Technical College Education discussed with members of Education Subcommittee A the recommendations and discussions of the Ad-Hoc Committee on Financing Comprehensive Community and Technical College Education.

This committee, which also was developed to review the impact of tuition models, provide suggestions for funding non-credit activity within workforce development areas and develop a funding model that rewards enrollment growth, provided recommendations in five areas that would improve the state's community college system.

First, the representative stated the Ad-Hoc committee recommended to review, strengthen and expand the Peer Equity

funding concept. To accomplish this goal, the representative stated they recommended promoting the Peer Equity model as the primary funding mechanism for community and technical colleges and establishing, as a legislative priority, that funding for each community and technical college be at 90 percent of the peer equity level over a five-year period.

Next, the representative stated the committee recommended the development of a methodology for funding high-cost programs. Identifying the programs that have a high delivery costs through a cost analysis process, developing and applying a formula-based approach to supplement the funding for the delivery of high-cost programs, incorporating a weighted formula within the peer equity model based upon credit hours generated in these programs, implementing a mechanism to provide funding for equipment renewal and replacement for such programs and implementing a common, system-wide, weighted fee for identified high-cost programs that is in addition to regular tuition and fees were recommended by the Ad-Hoc committee as possible avenues to address the issue.

Determining factors in developing a comprehensive tuition policy also was recommended as an area for review by the Ad-Hoc committee. Possible actions to achieve the above objective offered by the representative were: requesting funding to "buy down" capital debt fees at administratively-linked community and technical colleges; implementing of a tuition policy for community and technical colleges with the goal of establishing resident student tuition and fee rates that cover 25 percent of institutional operating costs; and, maintaining present policies of charging full-time rates based upon 12 credit hours. Discounting tuition for adult students was not recommended by the Ad-Hoc committee at this time, according to the representative.

The representative also discussed the need to develop a methodology for funding non-credit workforce development programs. It was suggested by the representative that officials look into examining the feasibility of incorporating non-credit contact hours into the peer equity funding model, expanding the WV Advance program as a model to develop quick response programs to address urgent workforce needs, expediting the process of awarding Higher Education Adult Part-time Student (HEAPS) 25 percent Workforce funds and expedite the approval of House Bill 3009 funding, as well as provide greater recognition to those institutions that are conducting the most effective and efficient delivery of programs.

The last objective discussed by the representative was the need for review of establishing an additional formula funding model. The representative stated the Ad-Hoc committee

recommended the development of a separate funding formula for the delivery of high-cost programs if new funding is dedicated specifically for that purpose and to incorporate any new funding formula into the Peer Equity model.

Also addressing members of Education Subcommittee A was a representative from the Association of American Publishers (AAP) who discussed college textbook sales. According to the representative, the AAP endorses the findings of the federal General Accounting Office (GAO) regarding college textbooks, including the finding that textbook prices have been driven by publisher investments in advanced instructional materials and new technologies. With the advancement of technology, many textbooks are now accompanied with additional reference material and supplements, including CD-ROM data discs and other multi-media add-ons. The representative stated that many professors utilize the additional materials provided by textbook publishers to enhance student learning without additional class time.

Publishers, however, take issue with GAO's conclusion that students pay almost \$900 a year for college textbooks, according to the representative. The National Association of College Stores and the AAP have found that annual student costs for textbooks are around \$600. In addition, none of the data compiled by either study takes into account the money received by students from the resale values of the used books.

The representative concluded his remarks by adding that publishers have responded to price concerns for college textbooks by expanding the number of low-cost texts they offer, including electronic books, black and white editions, custom books, abbreviated versions and loose-leaf editions. It was noted by the representative that there is a growing demand for these lower cost materials.

Education Subcommittee B - Public Education

November

The Director of the Office of Student Assessment of the West Virginia Department of Education appeared before the committee to discuss No Child Left Behind (NCLB) waivers. She said that each state was required to create an accountability plan by the end of 2003 that could be amended. She provided committee members with a handout detailing the amendments West Virginia has offered to date and the status of each proposed change.

To determine Adequate Yearly Progress (AYP), one of the changes, which was approved in June 2004, allowed West

Virginia to count the scores of former Limited English Proficiency (LEP) students in the LEP subgroup for two years after those students are no longer considered LEP.

A requested change that has not yet been approved would provide a waiver for the calculation of graduation rates. If approved, it would provide that if a student attends an approved alternative education program or the Mountaineer Challenge Academy and graduates or passes the General Equivalency Development (GED) test within five years of beginning ninth grade, then that student will be included in the calculation for the state's high school graduation rate.

Also during the meeting, lawmakers heard from representatives of the West Virginia Afterschool Partnership/Network regarding the state of afterschool programs. They discussed the 21st Century Community Learning Center Program, which is funded through the United States Department of Education and the NCLB Act and offers students various activities through afterschool programs that complement their regular academic programs.

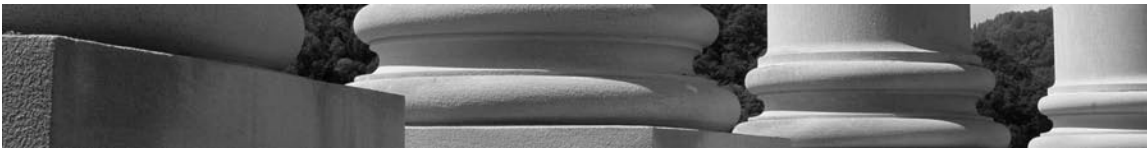
Communities apply for grants to implement these programs and according to the report, the West Virginia Department of Education received 32 proposals, which would have served 29, 683 children, in 2004; however, funding was only available for 12 grants. In 2004, only one grant was provided, while 21 proposals were received.

The representatives presented the committee with a proposed resolution that would create the West Virginia Afterschool Partnership, which would be comprised of agencies and organizations that serve the state's youth. This task force would assess the state of afterschool programs in the state; create a plan for providing programs that are accessible and sustainable; and, develop recommendations for ensuring access to these quality programs for all school-age children in the state.

December

Discussing the role of speech and language therapists in public education and stressing the importance of national certification recognition, representatives from the West Virginia Speech-Language and Hearing Association addressed members of Education Subcommittee B during the December Interim meetings.

The representatives stated that speech-language pathologists play an integral role in the public school system, with their overall goal of enabling students to achieve communicative competence. These professionals also assist students in preventing and responding to speech, language and hearing disorders which, in turn, assist in improving reading



and literacy skills. The representatives mentioned that many learning problems diagnosed in young students are related to speech, language or hearing problems.

With regard to legislative action, the representatives recommended the Legislature pass a measure that would create an equitable compensation act and establish a state minimum salary supplement for professional personnel holding a nationally recognized professional certification in speech-language pathology or audiology, similar to the supplements offered to nationally certified teachers. According to the representatives, certification in the fields of speech pathology and audiology involves a rigorous process and mandates further educational experience than what is required for certified teachers. In addition, those individuals who attain such national professional certification in speech pathology or audiology are essential to providing quality speech language and reading services to students throughout the state.

Along with the presentation mentioned above, staff counsel for the committee briefly reviewed with members the proposed committee report which will submit to the Joint Standing Committee on Education the issues, findings and recommendations of Education Subcommittee B. The issues discussed during the 2005 Interim session include establishing a statewide five-year Math Plan, review of the special five-year demonstration professional development school project, school nurse issues, school counselor issues, duties and authority of public school principals and assistant principals, alternative education programs, No Child Left Behind waivers, after school programs and in-home family education programs.

The report will be discussed and debated during the committee's January Interim meeting.

Equal Pay Commission

November

Attending lawmakers and members of the Commission met to review the upcoming pay equity salary adjustment. They approved the presented plan for the distribution of funds to ensure the adjustment, which will affect approximately 2,000 employees who are primarily located in the Department of Health and Human Resources, is ready for the beginning of the year.

The Acting Director of the Division of Personnel (DOP) also discussed the strategy he uses to determine a trend line for male-dominated job classes and if female-dominated classes fall below that line. He noted that the information he has isn't

sufficient and in order to obtain adequate data, an in-state study is needed; however, the use of funding for such a study requires authorization.

Pursuing two avenues for funding approval, legislative staff drafted a memo to the Senate President and Speaker of the House and the DOP will be putting in a request to the Governor's Office.

Finance Subcommittee A

November

Finance Subcommittee A was presented with a report regarding unemployment compensation by a representative for under-privileged and poor citizens. The representative, a lawyer based in the Charleston area, stated reasons why the state needed to raise the taxable wage base and make it flexible to meet the needs of workers who lose their jobs through no fault of their own.

The problem, as stated by the representative, is that wages have been rising with inflation yet the taxable wage base is not flexible, so the trust fund is unable to "recharge" itself for the next recession. The representative offered two possible solutions that can be made to the taxable wage base to help with this problem. These include providing a one-time raise in the taxable wage base and allowing it to be flexible so that the state does not fall behind the trend.

According to the representative, the unemployment trust fund is nearing insolvency, which mandates the need for placement within West Virginia code that would automatically adjust the wage base to avoid having to use emergency measures if, and when, the fund becomes insolvent. The representative added that, because the taxable wage base is fixed by law, the Legislature has historically managed trust fund insolvency through one-time, emergency appropriations. The disadvantage of using emergency procedures, according to the representative, is that the Legislature may be forced to impose a solvency tax on employers and employees during poor economic conditions, which could worsen the situation.

In addition, by providing a substantial raise in the taxable wage base and making it flexible, the trust fund will become and remain "healthy" and will avoid possible troubles during the next recession. Also, once the taxable wage base has been raised, and the trust fund become stable, the rate schedule for businesses, which is codified, will reduce. This will result in fewer taxes paid by businesses across the state, according to the representative. In addition, the representative noted that having a low taxable wage base makes it difficult

to recoup the benefits paid to former workers of employers with high experience ratings. Raising the taxable wage base will allow the trust fund to recoup the cost benefits paid by employers with high experience ratings more quickly.

December

During the December meeting, lawmakers continued their charge under Senate Concurrent Resolution 87, which called for a review of the costs of operating regional jails. The Executive Director of the West Virginia Regional Jails and Correctional Facility Authority provided committee members with a handout detailing the specifics of per-diem costs. She noted that the current per-diem rate per inmate is \$48.50.

According to this information, the largest daily costs are personal services, with 44.52 percent or \$21.49 per day; the second largest is current expenses, which includes food costs and utilities, with 33.38 percent or \$16.19 daily; employee benefits comprise 18.60 percent or \$9.02 each day; vehicles and equipment make up 2.10 percent or \$1.02 per day; minor repairs comprise cost \$0.46 per day or 0.95 percent; and, Public Employees Insurance Agency costs make up 0.45 percent or \$0.22 daily.

She also provided the committee with data from a random sampling of surrounding states' jail costs. This research revealed that the Summit County Jail in Ohio has a per diem rate of \$101.50; the average per diem rate in Pennsylvania is \$87.39; the Winchester Regional Jail in Virginia has a per diem rate of \$55; and, the per diem rate for the Washington County Detention Center in Maryland is \$53.35.

The Director stated that the Authority has worked to maintain the lowest per diem rate possible in West Virginia and continues to explore policies and programs that could lower it. For example, the Authority is looking at a program that would allow qualified offenders to work in communities and apply a portion of their salaries toward jail costs; key stakeholders are addressing overcrowding issues; and, courts are utilizing risk assessments to determine if certain offenders are better suited for alternative sentencing programs rather than incarceration.

Committee members then briefly discussed two separate issues they have been studying in the past months. It was mentioned that the Governor will be recommending legislation relating to clinic-based health care and that this committee's final report should reflect support of this measure. The Governor also is anticipated to offer a bill relating to public defenders. The committee noted that it would support legislation aimed at reducing costs by placing public defenders in all counties.

Finance Subcommittee B

November

Leading a discussion of the Business Franchise Tax, the Director of Fiscal Policy from the Department of Revenue appeared before attending committee members. He said the tax, which is a tax on the privilege of doing business in West Virginia, has a base of net equity and is measured by the value of common stock and preferred stock; the value of paid-in or capital surplus; and, the value of retained earnings. The Business Franchise Tax rate is either 0.7 percent or \$50, whichever is greater.

According to his report, many states impose either a franchise tax or an alternative minimum tax for revenue stability. States with the same tax base as West Virginia include Massachusetts with a 0.7 percent franchise tax, Pennsylvania with 0.599 percent, Alabama with 0.175 percent and South Carolina with 0.1 percent. Other states that impose franchise taxes with a tax base of net equity and debt include Louisiana with 0.3 percent, Mississippi with 0.25 percent, Tennessee with 0.25 percent, North Carolina with 0.15 percent and Oklahoma with 0.125 percent.

The speaker commented that the Business Franchise Tax is much less volatile than the Corporation Net Income Tax. When asked which tax would produce the greater return if it were either reduced or eliminated, he said the Business Franchise Tax applies to a broader sector of businesses.

Finance Subcommittee C

November

A representative from the West Virginia Department of Tax and Revenue briefly updated committee members on developments regarding the new severance taxes issued with the passage of the Workers' Compensation Debt Reduction Act of 2005.

The representative stated that the Workers' Compensation Debt Reduction Fund will be allocated \$90.2 million in severance taxes, \$54 million in policy surcharges, \$30 to \$46 million in tobacco settlement funds and \$11 million in purse fund reductions. To further break down the funding, the representative highlighted each of the three industries that will be affected by the additional severance taxes.

The new severance tax rate on coal production will be 56 cents per clean ton and the tax base will be the same as the 14-cent reclamation tax. In addition, this-seam coal and

waste coal will be subject to this tax. The due dates for the new severance tax will be identical to the original coal severance tax. For the tax on natural gas production, the tax rate has been set at 4.7 cents per 1,000 cubic feet produced by a company, with coal-bed methane gas wells being exempt from the tax. The due dates for payment of the new tax will be identical to the current natural gas severance tax. Timber production will be assessed a tax rate of 2.78 percent of taxable gross receipts, with no tax credits offered. The due dates for payment will be identical to the current timber severance tax.

For all three industries, the representative stated that electronic transfer of funds will be required if annual payments of combined severance tax and Workers' Compensation tax exceed \$50,000. Companies will be required to file tax returns on a monthly, quarterly or yearly basis depending on its monthly liability. The returns will be separate from regular severance tax returns. The new severance tax will begin December 1, 2005.

December

According to the Deputy Commissioner of the Bureau of Employment Programs and a research analyst for the Legislative Performance Evaluation and Research Division, West Virginia's Unemployment Compensation Trust Fund will be insolvent as early as 2008 or as late as 2013. But, both spokespersons noted insolvency is an issue, which should be reviewed by the Legislature.

One of the culprits of West Virginia's growing trust fund difficulties regarding its solvency is its low taxable wage base (TWB). According to material handed out by the deputy commissioner, unemployment insurance taxes are not imposed upon all wages but only to wages included in the state's taxable wage base (TWB). The material indicated WV's TWB amount has been set at \$8,000 since 1981. That means taxes unemployment insurance taxes are only paid on the first \$8,000 of a person's salary no matter what he or she is paid. To cover the same portion of wages as it did in 1981, the state's TWB would have doubled to \$18,900 for 2005. A low TWB means WV's unemployment insurance today does not have the capacity to recover from high benefit payment levels during economic downturns. And, if payroll or other taxes were imposed upon employers during an economic downturn, the situation would only worsen. Since West Virginia has a low TWB, the weight of the tax will fall more heavily upon low-wage workers and their employees.

Material distributed indicated that if West Virginia could raise taxable wage base to \$11,000 for the 2007 tax year, which would be equivalent to 36% of the state's average wage in

employment covered in 2006. After that year the wage base for the rate year could become "flexible" or "indexed" each year to determine to be 36% of the state's average annual wage at the time that the rates are set. At current wage growth trend, according to the information provided, the wage base would increase by between \$300 or \$400 each year and would equal \$12,400 by the year 2011. Since trust fund solvency is measured by the average high cost multiple (AHCM), and the recommended financing target of AHCM of 1.0, then the above financing approach would increase unemployment insurance revenues to reach an AHCM of 0.8 by 2011.

A report provided by the Legislative Auditor's office in a May 05, report noted that 17 states index their taxable wage base to wage growth in their states and these states are the most solvent in the nation.

The report's recommendations said, "The Legislature should consider placing a mechanism in statute that would automatically adjust the wage base, instead of making emergency adjustments to the statute when the trust fund reaches insolvency."

Forest Management Review Commission

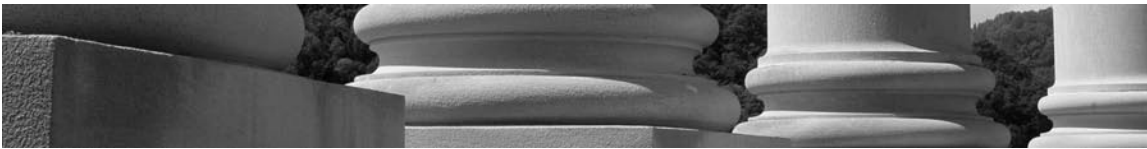
November

Lawmakers were told that West Virginia's forests are powder dry making it more susceptible to fires in some parts, and the Division of Forestry is trying to plug vacancies in one-fifth of its work force. As the meeting was ongoing seven new fires were raging, blanketing some 1,000 acres, including one traced to an underground coal mine.

Mine fires account for 2 percent of all wildfires each year in the state, but 21 percent of all acreage consumed annually are attributed to burning coal seams. Also, it was reported to the committee that most of the manpower shortage and the fire problem itself lies in southern counties. Kanawha leads the state in forest fires, followed by Wayne, Raleigh, and Lincoln.

Entry-level pay for forestry jobs is in the \$23,000 range, compared to up to \$32,000 in comparable civilian work. One source of help has been found in training inmates to help fight forest fires, 34 last spring and 38 others this fall, at five institutions. Inmates must be six months from parole to undergo the instruction.

Drought-like conditions that surfaced in September are having a telling effect, leaving many regions vulnerable to fires.



Interim Highlights

The Eastern Panhandle alone is 7.6 inches below normal rainfall. Raleigh County is about 6.4 inches under the usual amount.

There is some new technology available to the Division of Forestry, including 14 remote automated weather stations, enabling the division to get a better read on forest fuel conditions. One such facility at Grandview is plugged into the National Park Service inside the New River Gorge, as part of the department's to share with a federal partner.

On a separate topic, a representative from the Division of Forestry related to the committee that under the new state government reorganization plan, the Division is shutting down 25 of its 40 offices, saving some \$150,000 a year. Many of its workers simply will work out of their trucks, equipped with a laptop and phone, so they are in closer touch with landowners.

The Division will be setting up special 800-numbers so citizens can call the regional offices, and they, in turn, can reach foresters out in the field.

December

A representative from the West Virginia Division of Forestry (DOF) discussed with members of the Forest Management Review Commission plans to reorganize the agency to meet the challenges of the 21st Century and create a more efficient and cost effective forestry program in West Virginia.

According to the representative, the reorganization plan, which was developed by DOF field personnel, will streamline operations by combining the six current forestry districts into three regions. This will allow the DOF to realign personnel, eliminate excess vehicles and equipment and provide personnel that will be dedicated to specific program areas with measurable goals and accountability. In addition, the representative said the agency would be able to reduce the number of DOF positions currently allocated. Today, the DOF has 122.5 total allocated positions and under the reorganization, that number will be reduced to 112.5. The representative stated that this reduction would not result in any current layoffs because the DOF has 24 vacant positions that have not been filled.

The representative continued to state that fire control will remain the DOF's top priority, but realignment of personnel will allow greater opportunities to enforce the Logging Sediment Control Act, the law governing logging operations in West Virginia. Landowner assistance programs and ginseng regulation also will continue to be high priorities for the DOF. In addition, the representative stated that with dedicated per-

sonnel focusing on specific program areas, the public would receive improved services from the agency.

Along with reorganizing the DOF's personnel, the agency will look to institute a multi-flex work schedule, according to the representative. This new work schedule will allow DOF employees to serve the state for 50 hours a week rather than the standard 40 hours. It was reported by the representative that _ the Division's workforce would work 10-hour days Monday through Thursday, while the other _ will work the same amount of hours Tuesday through Friday. This working schedule will allow the DOF to park approximately 80 vehicles one extra day per week, saving on fuel costs and vehicle maintenance. The new four-day workweek is expected to decrease absenteeism and increase productivity, according to the representative.

Full implementation of the plan is projected to be completed by January of 2007. Over the course of the next several months, the DOF will look to develop toll-free phone numbers for regional offices to facilitate public access to the agency, enhance electronic communications and make full use of electronic record keeping. Also, the representative stated that all vacant field positions in the proposed reorganization should be filled as soon as possible.

In addition to the discussions of the DOF reorganization plans, another representative from the agency briefly reviewed with committee members the forest industry's taxes in West Virginia compared to surrounding states. According to the representative, West Virginia institutes a six percent severance tax on logging, which equates to an average cost of \$18 per thousand board feet (MBF). In Virginia, the tax averages \$1 per MBF, and in Ohio, Kentucky, Maryland and Pennsylvania there are no severance taxes collected.

In terms of Workers' Compensation rates for logging activity, West Virginia taxes the industry at a rate of almost \$53 per \$100 of payroll. The rates are considerably lower in Virginia (\$13.32), Maryland (\$23.80) and Pennsylvania (\$30.40). The representative also discussed the state's forestland tax in comparison with other surrounding states. West Virginia has the second highest land tax at an average of \$2.00 per acre. Only Pennsylvania has a higher tax at over \$5 an acre. Ohio (\$0.32), Kentucky (\$0.90), Virginia (\$1.86) and Maryland (\$1.88) have lower rates per acre than West Virginia.

View Interim Schedules on the Legislature's website: <http://www.legis.state.wv.us>

Government Organization Subcommittee A

December

Beginning a discussion of proposed metro government legislation, the Executive Director of the West Virginia Municipal League presented that organization's position on the issue. She said there are many advantages to using inter-governmental service agreements, as consolidation allows for more streamlined services. The Municipal League, she noted, supports enabling legislation that grants the decision to the cities and counties.

She also said there is a downside, as it may be difficult to distribute costs, such as retirement and insurance, equitably among participating agencies. In addition, she said the merging entities must have identical authorization to perform specific services under the agreement.

The Executive Director of the West Virginia Association of Counties then told lawmakers that the foundation of this group's existence was the protection of county governments and there is some concern surrounding the measure. The Association, however, wants to be active in metro government discussions and is encouraged that the proposed legislation would provide for change from the bottom-up, requiring initial decision at the local levels.

Citing an occurrence in Georgia when four counties merged and still faced economic woes, she urged lawmakers to ask the question, "Will the problems still be there if an entity is dissolved - and if so, will we be focused on solving them?"

The President of the Monroe County Commission expressed concerns that more populace counties would swallow rural counties and local autonomy may be lost, so he encouraged requiring separate votes in the largest city in a county and in the other parts of that county. He said this would prevent people living in the city from casting duplicate votes.

The final interested speaker was a West Virginia Farm Bureau representative, who said his organization's main concern is the method of approval for consolidation. He commented that if the legislation mandates votes in each precinct, then the Bureau would be in support because it wants to ensure that unincorporated areas have a voice in the process.

To ensure lawmakers and interested parties understood the true intent of the measure; committee counsel then reviewed the proposed legislation. It would allow for consolidation in three forms: county consolidation, meaning the joining of two or more counties; metro consolidation, meaning the joining of one or more counties and a principal city; and, municipal

consolidation, meaning the joining of two or more municipalities, including cities towns and villages.

Exclusions to consolidation would include school districts, public service districts, volunteer fire departments and special tax districts.

Consolidation could be initiated by a petition signed by at least 15 percent of the qualified voters or a resolution by the appropriate governing body. A charter review committee then would be established to verify the petition or resolution, determine the feasibility of consolidation, draft a proposed charter and hold a public hearing. After the charter is approved by the committee, it would be sent to the governing bodies of the affected areas to be placed on the ballot during the next primary or general election.

Counsel noted that counties couldn't be dissolved under this legislation, as they are constitutional entities. She maintained that in the event of consolidation, counties' names, boundaries and constitutional officers would remain.

Any amendments to the legislation from committee members will be offered during the January meeting.

Government Organization Subcommittee B

November

This committee is focusing on HCR 78, which asks for a study on awarding contracts, loans, grants and industrial revenue bonds to firms that outsource certain jobs.

On the main issue before the panel, committee staff updated lawmakers on efforts by other states to deal with firms that outsource jobs while bidding for government contracts.

Staff pointed out more than 200 such measures were offered in 40 states to limit offshore outsourcing last year, compared to a mere four the year before. Five such bills were vetoed by California's governor, while one was killed in both Maryland and Massachusetts.

Committee members adopted a motion to compel an appearance by officials of the state Purchasing Division at December interims after failing to get them to appear during previous invitations by the committee.

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Government Organization Subcommittee C

December

This committee has been focused upon two study resolutions, HCR 51 studying the need to provide low-cost spay and neutering programs across the state, and SCR 80 studying the State Board of Landscape Architects.

A representative of the West Virginia Board of Landscape Architects appeared before the committee and requested assistance in proposing legislation to revise current law. The representative stated that under current law, landscape architect license renewal fees are capped at fifty dollars. The Board's revenue source, since it is self sufficient, is limited to the renewal fees.

The Board has an annual renewal roster of around 100 landscape architects so it has a hard time remaining solvent. The Board is requesting rule-making authority to provide for the setting of fees as well as continuing education and licensing requirements.

Also, under current law a person may not call himself a landscape architect unless it has been licensed by the Board. Therefore, the representative stated that the Board's role would be better served by making it unlawful to practice landscape architecture without a license.

Insurance Availability & Medical Malpractice Insurance Committee

December

West Virginia's Insurance Commissioner opened the meeting by stating that since the passage of two medical malpractice measures in 2001 (House Bill 601) and 2003 (House Bill 2122), the state has seen a number of positive results. Reviewing a report on insurers providing 5 percent or more of malpractice coverage in the state, she said there is a downward trend in the number of filed claims, rates are beginning to stabilize and hospitals have responded that they are better able to recruit physicians into West Virginia.

According to data from the West Virginia Board of Medicine, the number of paid claims has dropped by more than 40 percent since 2001; over the last three years, an average of 40 percent of claims were dismissed, indicating that the certificate of merit legislated in 2001 is having a positive impact; only 10 percent of claims go to court; and, 61 percent of claims are settled outside of court.

The President of the West Virginia Physician's Mutual Insur-

ance Company, which provides coverage for 1,650 policyholders, or 60 - 70 percent of the market, then addressed the committee regarding progress made. He commented that five years ago, doctors were leaving the state, trauma centers were closing and there was a serious medical liability crisis.

Temporary solutions at the time included the creation of the Board of Risk and Insurance Management (BRIM) I and rate increases. When House Bill 601 took effect in January 2002, BRIM I was expanded to BRIM II and other reforms were enacted; however, according to his report, it did not reduce the short-term price of coverage. Among other sweeping changes, House Bill 2122 provided for the formation of the Physician's Mutual, which incurred policies from BRIM II on July 1, 2004.

Since that time, he said, doctors are coming to West Virginia, trauma centers are opening, patients are seeing enhanced access to care and the overall medical liability environment has improved. As a result of the Mutual's positive performance in its first year, the Insurance Commissioner has approved a 5 percent rate reduction on January 1, 2006.

Joint Commission on Economic Development

December

To ensure that the state is not investing in speculative office building, the West Virginia Development Office has turned to a concept entitled "land banking." This process allows for site development in terms of infrastructure, water and sewer development and road development but the state will not invest in the construction of office buildings unless the structure is 35 percent pre-leased, according to the Cabinet Secretary for the WV Department of Commerce.

The idea of land banking is to provide developed sites for selection by private industry. With a variety of sites in ready, the state should be better to equipped to negotiate further with interested builders of industry. And, once the site is purchased then there are few delays regarding its price with existing landowners. The land banks should be under the auspices of local economic development authorities. Once the land is leased by businesses, then property taxes are enforced.

In his first presentation before the Legislative Economic Development Commission, the former bank president noted he accepted the position as Commerce Cabinet Secretary following an extensive recruitment campaign by state officials. He believes West Virginia's drive and ambition to turn itself around economically belied his initial image of the state.

Having been employed by the state since February of 2005, the Cabinet Secretary has requested that all divisions under Commerce put together a game plan that will serve as a blueprint for change. He noted the Division of Forestry has been the first responder and is moving progressively in enhancing that portion of the state's resources.

According to the Secretary relative to the operation of state parks, it is imperative for the facilities to break even financially. Today, none of the parks are self-sufficient and; as such, the state should consider public-private undertakings and allow some sort of business agreement with individuals, such as private resort managers. He also noted that \$500,000 was recently spent on updating a golf course that continues to lose money. While nationwide, he told the committee, rounds of golf are dropping and the state should invest in courses that are more widely used, such as one at a State Park in the Eastern panhandle. The Panhandle course lures many Maryland and District of Columbia golfers with its proximity.

In other prepared remarks, the Secretary noted several plans on are the table within the department such as looking into the prospect of opening one marketing and advertising umbrella. Presently the Development Office is developing an ad similar to one promoted by the Department of Natural Resources. The Secretary noted consistency in production and quality of advertisements would enhance the professionalism of the state in its efforts to lure business, industry and tourists into the state.

When asked about development in the Southern part of West Virginia, the Secretary noted meetings conducted with the cities of Bluefield and Princeton and the county commissions that are resulting in a cooperative plan. The project could evolve into a \$150-200 million plan but the Secretary was pleased that both cities are looking at donating land instead of working independently.

While there are no major projects in the works overall, many homegrown, smaller projects become significant when there is cohesion among the planners.

Coal conversion plants continue to be on the plates of local developers throughout the state as well. The Commerce Department is participating by assisting in the state's coal inventory. He noted these plants should be private as opposed to public.

Overall, the Development Office is undergoing changes within, the Secretary of Commerce told the Committee membership. In fact, lawmakers can expect significant changes to take place within the office within the next six months.

Joint Legislative Oversight Commission on State Water Resources

December

Continuing their review of the ongoing water survey that was required by the Water Resources Protection Act (Senate Bill 163 from the 2004 Regular Session), lawmakers received a status update from individuals involved in gathering the necessary data. A representative from the Department of Environmental Protection (DEP), Division of Water and Waste Management was first and addressed the preliminary survey results.

Under the legislation, the DEP was to survey the water use of businesses and industries for 2003-05. He told lawmakers that primarily because of a hydroelectric plant, the New River is the state's most heavily used waterway, with 1.9 trillion gallons withdrawn each year. The Ohio River is the second top-used stream, with 764 billion gallons used annually, and the Kanawha River is third, with 222 billion gallons withdrawn each year.

The Director of this Division remarked that work is being done to correct errors received in the first annual survey of water users. The representatives also commented on the insufficient data available for groundwater supplies and noted that without adequate information, each of the questions posed in the legislation may not be answered.

A researcher working with the DEP from West Virginia University's Water Research Institute then provided the preliminary results for specific elements of the survey. She said they are working to obtain adequate drought data to determine low-flow conditions and have looked to other states for models on how to measure this information. She echoed the concerns of the DEP by noting insufficient data on reservoir levels and groundwater supplies.

The researcher also applauded the efforts of the Legislature in passing this measure and encouraged future policies on water conservation and a discussion on water quality.

The final presenter was the Director of Marshall University's Center for Environmental, Geo-technical and Applied Sciences, who also is working with the DEP on the survey. He said that using gathered information; he estimates that West Virginia's total water use will increase by approximately 3.7 percent in the next five years.

Joint Standing Committee on Government Organization

December

As called for by Senate Concurrent Resolution (SCR) 78, members of the committee heard from two West Virginia Board of Examiners of Psychologists members, who presented opposing views regarding licensure revision. The first speaker said that while certain changes in SCR 78 are favorable, she does not support eliminating the licensure of master's degree psychologists.

Maintaining that this change could affect rural areas' access to these providers, she noted that 25 of West Virginia's counties do not have doctoral psychologists, who require much higher salaries. Additionally, she said 60 percent of doctoral psychologists in the state currently are practicing in four mostly metropolitan counties - Kanawha, Cabell, Monongalia and Ohio. She also noted that there is no evidence indicating that master's level psychologists provide substandard care.

The second Board member, who is a proponent of this change, then addressed attending lawmakers. He said the primary reasons for licensure in any field revolve around protecting the public and that the Board's intent is to provide this protection by making psychology licensing in the state consistent with national standards. According to information included in his presentation, West Virginia is the only state in the nation to allow the use of the title, "psychologist," by people with an education lower than a doctoral degree.

To provide evidence for his position, he discussed the Examination for Professional Practice in Psychology, which is the national written exam and is a test of the knowledge base important to professional work. He noted that results for the test are clear and consistent and that doctoral applicants score significantly higher, with the average score of master's level applicants being a failing score over the past 25 years. He said during this time, this has never occurred for doctoral applicants.

During the committee's second meeting of the December Interims, members heard from a representative of the West Virginia Institute for Labor Studies regarding a study of the West Virginia Public Sector Grievance Procedures. The study, still in draft form and not fully finalized, said the grievance procedures for state employees, teachers and higher education personnel are complicated, expensive, and often work against employees even when they win their grievances.

The representative stated there is nothing fundamentally

wrong with state employee grievance law and added that if it were enforced better, it should be sufficient.

The study concluded that patterns of interpretation of the law by various state agencies over time have created a system that many employees find befuddling and frustrating. One of every four Level 4 grievance-hearing decisions is appealed to circuit court, the study found. Level 4 is the final step of the state grievance process, with hearings before the state grievance board.

The research found that even when employees won Level 4 decisions, they lost. Frequently, the employer simply never provided payments or followed directives made in the decisions.

The study made several recommendations intended to improve the process, including allowing binding arbitration to resolve Level 4 grievances, imposing strict requirements for employers to comply with payments and remedies awarded to employees in Level 4 hearings and restricting the use of attorneys at Level 1-3 hearings.

The study found that legal costs for state agencies averaged \$775 per grievance, while county boards of education averaged \$1,566 in legal costs per grievance.

The final version of the study should be prepared in time for the January Interim meetings and the start of the 2006 Regular Legislative Session.

Judiciary Subcommittee A

November

Counsel provided committee members with an overview of draft legislation, which was derived from the 2004 flood study recommendations that would authorize the Public Land Corporation (PLC) to use eminent domain for abandoned structures in waterways. These obstructions can cause back-ups and worsen flooding when water pushes through; however, the PLC currently must negotiate with the Division of Highways to remove any abandoned structures. Counsel noted that once approval is granted, oftentimes damage already has occurred.

Lawmakers also reviewed draft legislation that would address manufactured home installation in flood areas. To safeguard against damage, this measure would require the Manufactured Housing Board to enforce standards for installation of homes in flood plains. One provision in the bill would prevent utilities from being connected in the home until the necessary certificate is received.

December

Providing lawmakers with information on Administrative Law Judges (ALJs), a representative of the Department of Administration said a questionnaire was disbursed to all agencies with in-house ALJs, but total hours of contracted services still need to be determined. She provided the committee with information on the salaries for the in-house ALJs and the data collected to date on contracted adjudicators.

A geologist from the Canaan Valley Institute then gave a report on dredging and flooding in West Virginia. Going through numerous photographs depicting scenes of flooding damage and the effects of dredging on streams, he told lawmakers that if a natural stream approach to restoration were used, then problems such as bank erosion would not have to be fixed later.

He explained that this method changes the direction of flooding because unlike dredging, which does not contain certain types of floods, creating a natural stream channel design entails rebuilding and re-routing sediment, as well as building floodplains. This approach, he maintained, requires a well-conceived plan, as teams working on this approach must be aware of the streams' dimensions.

Lawmakers then were provided with an overview of the National Flood Insurance Program (NFIP), which is a federal program allowing property owners to purchase insurance protection against losses from flooding. This is an alternative to insurance that is aimed at meeting the costs of damages that occur during floods. Communities can choose to join the NFIP and in doing so, they must adopt minimum floodplain management standards and work with the Federal Emergency Management Agency to identify flood hazard areas.

The committee then reviewed three pieces of draft legislation. These measures relate to floodplain management; allowing the Public Land Corporation to use eminent domain to condemn certain structures located in waterways; and, requiring manufactured homes located in floodplains or flood hazard areas to be properly secured.

Judiciary Subcommittee B

December

Members of Judiciary Subcommittee B supported three legislative items during the December Interim meetings, including a resolution urging the United States Congress to increase the federal minimum wage. In addition, members moved to the Joint Standing Committee on the Judiciary with full recommendation a measure that would seek to increase the state's

minimum wage from its current \$5.15 to \$5.85 in 2006, \$6.50 in 2007 and \$7.25 in 2008. This measure is similar to federal legislation being considered by Congress.

Along with minimum wage legislation, the committee also recommended the passage of a measure that relates to the administration of medically ineffective treatment. The proposed bill would define medically ineffective cardiopulmonary resuscitation (CPR) and authorize an attending physician to issue a do not resuscitate order for a person who is unable to decide for themselves or not in the capacity to know when CPR would be ineffective. The bill would further state that the issuance of a do not resuscitate order would not require consent when it has been determined to be ineffective by the attending and another physician.

The legislative measures have been sent to the Joint Standing Committee on the Judiciary for its consideration.

Judiciary Subcommittee C

December

Providing lawmakers with an overview of sex offender programs, the Deputy Director of Programs of the West Virginia Department of Corrections reviewed current statistics, the scope of the problem and the types of supervision, treatment and management being utilized.

She noted that 21 percent of the state's offender population is comprised of sex offenders, making it the largest categorical population presently housed in correctional facilities. Also, according to the speaker, the average sex offender has more than 70 victims before incarceration and approximately 147 are released from the state's facilities annually, equaling one sex offender released every three days.

The Director said to be effective, supervision and treatment for offenders must be coupled - with the ultimate goals of increasing public safety by reducing future offenses, holding offenders accountable for their actions and increasing offenders' ability to manage their problems. She said the current approach is a three-tiered, cognitive-behavioral one. The programs generally are facilitated by therapists, counselors or case managers in the corrections system and entail psycho-education, cognitive restructuring and relapse prevention.

In addition, she said while community treatment programs are limited, parole programs are offered through the Serious and Violent Offender Reentry Initiative in parole offices in Charleston, Beckley, Parkersburg, Clarksburg, Wheeling and Martinsburg.

The Director of Criminal Records of the State Police then addressed the committee and said of the 2,417 registered sex offenders in West Virginia; information for 2,050 is available on the State Police Web site. The department is working on a backlog of approximately 300. Fourteen of the offenders have been identified as sexually-violent predators, with one deemed violent in West Virginia and the others designated as such before moving into the state. He noted that two individuals currently are in the process of being determined sexually violent by the state.

The representative stated that in August 2005, the State Police was authorized to publish offenders' physical location and 97 percent of addresses currently are on the Web site. To ensure continued accuracy, letters are sent to offenders in their birth months each year and they are required to re-register, while sexually violent predators are required to re-register every 90 days.

LOCEA

November & December

Responding to requests by LOCEA members, a representative from West Virginia Higher Education Policy Commission discussed a report outlining various special fees that public higher education colleges and universities charge and the revenue generated by these fees.

According to the representative, higher education institution in West Virginia, similar to others across the nation, charge special fees for various services additional to tuition required for all students. Some of these fees are specific to the course a student is taking, for example computer software certification or nursing laboratory fees. In addition, some of the special fees charged to specific students are for services such as transcripts and graduation fees. The reasoning for charging these special fees, according to the representative, is to attempt to devise a more equitable distribution of higher cost courses. By doing so, the institutions are charging students within a specific course program the appropriate fees necessary to complete their course work rather than charging a blanket fee to all students of a college or university. The representative added that institutions of higher education do not profit from these additional special fees, they are solely to cover the costs incurred by the school.

Also addressing members of the commission was a representative from the West Virginia Council for Community and Technical College Education. Based upon requirements set forth in Senate Bill 448, the Council must submit a report to LOCEA on an annual basis regarding the progress made in

meeting the goals for the delivery of quality community and technical college education.

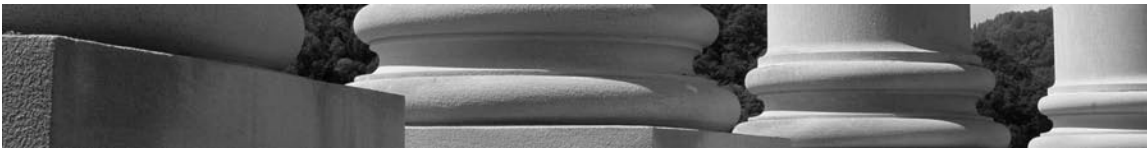
The representative discussed three major areas of review, including progress in independent accreditation, the essential conditions of the system and specific performance indicators that reflect specific data in five different area: access; workforce development; student success; improved literacy; and, collaboration.

It was noted by the presenter that all administratively linked community and technical colleges have achieved independent accreditation and Eastern West Virginia Community and Technical College is on schedule to achieve accreditation in 2008. With regard to essential conditions, the representative stated all essential conditions are being met. In addition, the financial charge-back system between administratively linked community and technical colleges and the host institution has been finalized and approved by the West Virginia Council for Community and Technical College Education. However, the representative said that the tuition and fee structure for administratively linked community and technical colleges is still not competitive with freestanding community and technical colleges.

Some of the positive performance indicators mentioned by the representative that show progress within the state's Community and Technical College system include: an eight percent increase in credit courses over the three-year period from 2003 to 2005; a 17 percent enrollment increase in non-credit courses over the three-year period; 74 percent increase in the number of career-technical certificate degrees offered; 111 percent increase in the number of students completing a one-year certificate degree program; 19 percent increase in the number of career-technical associate degrees awarded; 76 percent increase in the number of individuals receiving workforce training; and, 92 percent passage rate on national and state licensure/certification exams.

The representative also reported some areas of concern highlighted by the performance indicators, including: three percent participation rate for credit and non-credit enrollment (goal is six percent); 30 percent of community and technical college students graduate in six years (goal is 36 percent); 67 percent of students enrolled in developmental education math courses successfully complete the next subsequent college-level math course (goal is 82 percent); and, first to second year retention rates decreased from 61 percent in the Fall of 2003 to 55 percent in the Fall 2004.

Members of LOCEA also were presented with an executive report detailing cost models for the state's Promise Scholarship program. According to a representative from the Promise



Scholarship program, the Promise Scholarship Board of Control was directed by the Legislature to identify cost-saving strategies to allow the program to operate within a target appropriation of \$27 million.

Three main strategies discussed by the Board as possible ways to reduce costs to the program were limiting benefits, raising standards and instituting a need-based component. Nine options were presented to the Promise Scholarship Board based on the three strategies for cost reduction.

The representative stated the Board's preference is to recommend full funding for the Promise Scholarship program. If that cannot occur, the representative added, the Board recommended capping the award amount as the preferred method to cost reduction.

Representing the Governor's Commission on Graduate Study in Science, Technology, Engineering and Mathematics (STEM), a presenter discussed with LOCEA members the study's first report. According to the presenter, the purpose of the report is to identify the most significant challenges facing graduate education and to begin to build a consensus about how to address these challenges.

It was noted by the presenter that both the executive and legislative branches of government in West Virginia have invested money and resources to improve the quality of research and graduate education. As a result, the representative added, West Virginia has become a national model for research success. However, the representative went on to state there are serious concerns and problems that remain.

West Virginia ranks near the bottom on a number of key scientific and technical indicators, including the number of post-doctorates in science and engineering fields and the number of STEM graduate students. In addition, many STEM faculty are at or near retirement age or are being recruited by other institutions in other states. Also, the representative added, university libraries in West Virginia are facing severe budget cuts and are finding it difficult to provide researchers with the most recent and updated scientific journals and texts.

The Governor's Commission on Graduate Study in STEM was a product of Senate Bill 603 passed during the 2005 Regular Legislative Session. The report discussed with members of LOCEA addresses the concerns listed above and offered various recommendations on how to build West Virginia's capacity for graduate education in STEM fields. Also, the representative noted that this is a long-term proposition that requires additional review by the Governor's Commission and hope both executive and legislative leaders will extend

the term of the Commission and allow it to issue additional reports and recommendations in the future.

LOCEA & LOCHHRA - Joint Meeting

November

According to a report distributed and discussed by representatives from the Center for Business and Economic Research at Marshall University during a joint meeting of the Legislative Oversight Commission on Education Accountability and the Legislative Oversight Commission on Health and Human Resources, the evidence is overwhelming that early child development programs are a major tool to be used in economic and social development. The report finds that not only are these programs highly beneficial to children in increasing their capacity to be more productive adults, it also benefits a society by reducing crime, delinquency, teen pregnancy, lower welfare participation and greater lifetime earnings.

In addition, the study shows that early child education programs have a major positive effect on economic development. It assists in improved high school graduation rates, greater rate of college attendance, enhanced IQ scores, less grade repetition, reduced special education placement and higher math, reading and language skills development. It also produces higher quality workforces through less absenteeism, better skills and knowledge, increased workforce participation and workforce productivity.

The benefits of early child development programs can also be seen for business and employers, according to the representatives from the Center. A study conducted in Oregon showed that each business that supported early child development programs received almost 10 times their investment. In terms of real money, early child development programs saved businesses \$261 per employee.

The Center estimates the "payoff" for implementation of quality early child development programs in West Virginia over the next 40 years could be as high as \$9.5 billion in current value. The costs associated with providing these programs would be around \$1.8 billion over that same time period, which equals an overall economic impact of over \$7 billion. To break it down even further, for every dollar spent on early child development programs, the state would see \$5.20 in return.

Also commenting on the positive impacts of early childhood development programs during this joint meeting were representatives from the West Virginia Department of Education (WVDE) and Department of Health and Human Resources

(DHHR). The representatives discussed the state's early child development program and the state's commitment to this initiative. The program, which aims to provide all children in West Virginia with access to high quality early care and education programs to ensure they will be ready for school and lifelong learning, has received national attention and is one of the most ambitious and comprehensive programs in the country.

However, the program in West Virginia is underfunded, according to the representatives. The rates for the program are inadequate for childcare and law staff pay, along with the lack of benefits for program employees, is the greatest challenge to improving the quality of the community early childhood workforce. In addition, a study was conducted asking parents what they want and need from the early child development program. Many parents stated they would like to see better dental care and increased affordability of oral health services, increased behavioral health services and counseling and increased availability to high quality child care.

LOCHHRA

November

From 1998 to 2002, colorectal cancer is the third leading cause of cancer-related deaths and the third most commonly diagnosed cancer in West Virginia.

The American Cancer Society found that by the end of 2005, 147,000 Americans will be diagnosed with this disease and 56,730 will die as a result. In West Virginia, the state Cancer Registry reported of the 1,325 new cases of cancer diagnosed in the state in 2002, 482 deaths were attributed to colorectal cancer.

The chance of developing colorectal cancer increases with age and WV is ranked second in the nation for its overall percentage of residents over the age of 65. Other factors that increase an individual's chances for developing this disease are physical in-activity and obesity.

According to a 2003 survey of the Behavioral Risk Factor Surveillance System (BRFSS), more than 27% of West Virginia adults are obese and 57.3% of adults did not meet the CDC's Healthy People 2010 objective for moderate physical activity.

Currently, with funding from the Centers for Disease Control and Prevention, the WV Comprehensive Cancer Program created the WV Colorectal Cancer Initiative for colorectal cancer education. Some of the activities the Initiative is currently con-

ducting are three annual statewide Colorectal Cancer Summits, with the most recent summit focusing on health care systems-related barriers impacting colorectal cancer screening; a piloted six week multi-media public awareness campaign in the Easter Panhandle and Potomac Highlands; and, a worksite education program titled "Colorectal Cancer-Myth Busters". It is the WV Comprehensive Cancer Initiative's goal to educate West Virginians on colorectal cancer and to increase the screening rates, especially to under served populations.

The disease is preventable and a regular yearly screening after the age of 50 saves lives. However, the West Virginia Institute for Health Policy Research also found in 2003 that nearly 63,000 West Virginians have no health insurance.

In addition to discussing colorectal cancer during the November interims, the Legislative Oversight Commission on Health and Human Resources Accountability heard a presentation from the WV Department of Health and Human Resources (DHHR) regarding the Medicaid Redesign Proposal.

According to a spokesperson for the DHHR, the largest percentage of WV Medicaid beneficiaries (51.17%) are children. The smallest percentage of beneficiaries are seniors at 8.33%. However, Medicaid participants have grown in numbers by 37,365 since 2001. The largest percentage of these new sign-ups are elderly and/or disabled.

The goals of the WV Medicaid Redesign Proposal include streamlining the administration of the program, tailoring benefits to populations in need and providing members with the opportunity and incentives to maintain and improve their health. By streamlining administration, the proposal aims to reduce 29 eligibility categories down to 4 eligibility categories. All mandatory coverage groups and previously eligible individuals would continue to be covered under the proposal. Another aspect of the proposal recommends that participant's health information, such as medical records, claims (Medicaid, Medicare and commercial), and public health data, be stored electronically.

The proposal would also require Medicaid participants to complete an agreement to keep medical appointments, share in program costs through co-pays, and try to live a healthier lifestyle. By living a healthier lifestyle participants would receive healthy rewards accounts. These accounts would have a fixed amount of credits per quarter per participant deposited in a healthy rewards account. These accounts would then be used to cover medical and pharmaceutical co-payments for the participants. Any credits remaining at the end of the year could be used to purchase non-covered services by the participants, according to information provided to legislators by the DHHR.

December

Having been officially on the job for 12 days, the Acting Pharmaceutical Advocate gave a brief summary of the line of actions the Advocate and the Pharmaceutical Council are undertaking in the next three months. Making a concerted effort to develop a central fill pharmacy, the Advocate is focusing on streamlining the purchasing of prescription drugs for government-funded health care programs. The Medicaid program, covering 22 percent of state residents, cost \$300 million in fiscal year 2005 and the Public Employees Insurance Agency (PEIA) spent \$172 million. The council's long-term goal is to invite private plans to share in the state's cost-cutting efforts.

Directing initial efforts toward the drug consumers, such as PEIA, the prison system and other state agencies providing prescription medicines, the Advocate is collecting information on what agencies purchase drugs, how the purchase them and where they purchase them to have a clear picture on the overall distribution and purchasing practices of state entities.

In addition, the committee was told the draft and complete annual report on the workings of the low prescription price program should be in ready by the close of December.

Also appearing before the committee was an AARP representative who told the membership of the seniors' association's strides in informing state residents about the new Medicare Prescription plans and off the pros and cons of each. The spokeswoman noted that AARP deliberately determined not to participate in the regional sign-up events so as not to appear biased toward any particular plan. However, of consequence, the spokeswoman requested that members notify their constituents of West Virginia's Call Center, which is manned by experts who will walk anyone through all of the programs so that recipients sign up for the most appropriate package for their needs. That toll-free number is 1-877-987- 4462.

The Program Director for WV's Breast and Cervical Cancer Screening Program reported to lawmakers that cervical and breast cancer rates continue to be a problem.

According to the program's most recent data, in 2002, 1432 new cases of breast cancer were diagnosed while 268 women died from the disease.

Cervical cancer is receiving more public attention in more recent years. Although 100 percent curable if detected and treated early, 97 cases were detected and 35 women died from this disease. West Virginia has the lowest rate of cervical cancer in the nation, according to the program director,

who attributed early detection as a result of codified payments for screenings.

Some lawmakers inquired as to the availability of liquid base pap smears. Information shared indicated that liquid base pap smears were vastly more accurate than conventional smears. When told \$17 was the cost of the liquid base screening and conventional smears amounted to \$9.50, lawmakers requested a comparison of costs between the two screening methods to be provided at the January meeting.

Touching on the mental health system in West Virginia, a long-time mental health advocate reminded the committee that in 1994, West Virginia had one of the highest de-institutionalization rates in the country with 96 percent fewer psychiatric patients.

Savings produced by caring for individuals in the community environment have not been shifted to community providers to pay for their services. As such, West Virginia is experiencing increased commitment rates and psychiatric readmissions; increased utilization by the state of private hospital psychiatric beds; increased admissions to correctional facilities; increase substance abuse admissions; and increased homelessness.

Additional funding problems came with a reduction in Medicaid dollars by \$31 million in three years. Since 90 percent of net patient revenue at the state's 13 comprehensive behavioral health centers is Medicaid, no space to cost shift or absorb Medicaid reductions is feasible. The end result is often the reduction in services.

Suggestions for changes include:

- provide adequate Medicaid rates

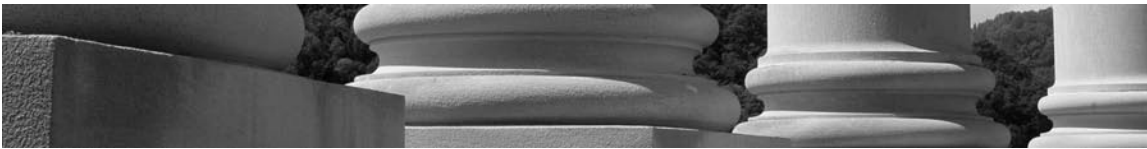
- develop innovative programs with flexible and less-complicated funding mechanisms so that patients may remain in their communities

- provide state funding to cover individuals not covered by Medicaid

LOCWIED

December

Picking up on their review of what is being done in West Virginia to prepare individuals for in-demand jobs in various industries, lawmakers heard from the Executive Director of WORKFORCE West Virginia. He said program activities continue in the oil and gas, coal and welding fields. He said



Interim Highlights

the goal is to allow the industries to set up the programs to their specifications to develop entry-level workers with the appropriate skills.

He also said an inter-agency team, which meets monthly, is working on a funding stream report detailing funding for workforce development and the programs' missions and outcomes. This report will be presented during the January meeting, which representatives from the various agencies that appear in the funding stream also will attend.

The Assistant Superintendent of the Division of Technical and Adult Education then provided lawmakers with a document detailing the earning potential of students who receive degrees or certificates in Value Added Career / Technical Education. He noted that there was an approximate \$16,000 increase in additional yearly income for individuals who completed one of these programs out of high school.

According to the report, there were 4,818 students who completed career / technical concentrations during the 2003-04 school year in West Virginia. Of those, 2,212 were in engineering / technology, which has a state average potential annual wage of \$28,470 and a national average potential yearly wage of \$33,584; and, 1,077 were in health services, which has an average annual salary of \$25,718 on the state level and \$30,178 on the national level.

He also said an energy resources course will be offered in select technical schools throughout the state and if successful, then an energy concentration may be established.

The final presenter was the Chancellor for the West Virginia Council for Community and Technical College Education, who reviewed a comprehensive plan to complement economic development and address future retirement concerns. The Council is working to identify targeted industries, employment clusters, employment demands, gaps in programs offered and the skill sets and education levels required for certain jobs.

The Council then needs to identify funding necessary to implement the needed programs. Much of the money will be needed for the "occupational scan," which will entail meetings with employers and running samples. He noted that this would be costly; however, the Council has set aside some funding for this purpose.

View Interim Schedules on the Legislature's website: <http://www.legis.state.wv.us>

Legislative Oversight Committee on Regional Jail and Correctional Facility Authority

December

Continuing its discussions regarding prison overcrowding, members of the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority discussed with committee counsel the possibility of sending inmates to out-of-state facilities. According to counsel, the West Virginia Constitution clearly prohibits the forced transfer of inmates to other states unless consent is given, and in 1984 the State Supreme Court upheld the article, stating that transferring such inmates is a violation of their constitutional rights.

In addition to the possible constitutionality of transporting inmates across state lines, members of the committee questioned the costs of housing inmates out-of-state. With no fiscal reports provided to the committee detailing the price of placing prisoners in other states' facilities, members requested staff to provide the committee with a breakdown of what it would cost the state. In addition, members requested staff to look into the costs of possibly placing inmates in new federal prisons that are currently being built in West Virginia.

Representatives from the Regional Jail and Correctional Facility Authority and the Division of Corrections (DOC) briefly addressed the committee regarding prison populations in their respective facilities. The representative from the Regional Jail Authority stated their current population is close to 1,400 inmates. The DOC reported over 5,200 prisoners currently detained, with a projection of close to 7,000 by 2014.

In addition to the discussion of prison populations, a representative from the West Virginia Parole Board addressed the committee, requesting members look into three proposed pieces of legislation. One measure would disallow future parole opportunities for three-time parole violators, another would mandate any person violating home confinement or terms of probation to serve a year in prison before becoming eligible for additional parole hearings, and the third bill would provide additional offenses that require notice to victims of an offender's parole hearing.

Also addressing the committee were the parents of an inmate who died while in custody at North Central Regional Jail. It was stated by the parents that they believe their son to have been a victim of excessive force by the guards at North Central and have since become activists in protecting inmates from abuse. The representative from the Regional Jail Authority told members of the committee that external and internal investigations are currently being conducted, including an investigation by the Federal Bureau of Investigation

(FBI), and ensured legislators that if any excessive force or inmate abuse is proven, the appropriate measures will be taken to address the problem. The representative stated that the agency would have a “zero tolerance” policy if any guard were found to have used excessive force.

Parks, Recreation & Natural Resources Subcommittee

November

Appearing before the committee to discuss the status of Chronic Wasting Disease (CWD) in the state’s deer population, the Director of the Division of Natural Resources (DNR) told lawmakers that the main public concerns are human health and the health of their livestock. He noted, however, that in the more than 30 years that the disease has been monitored since its first appearance in western states, there have been no documented cases of transfer to either humans, livestock or domestic animals. The Director said the impacts of CWD on other states have been primarily economic.

The first deer found to have CWD in West Virginia was in Hampshire County in September 2005. Once this deer was identified, teams comprised of personnel from the Wildlife Resources and Law Enforcement sections of DNR began collecting deer in certain areas of the county. Through the collections, three more deer were confirmed to have the disease and after these discoveries, deer collection efforts intensified. The three additional deer discovered were within a 2.5-mile radius of the first deer.

At the time of the meeting, a total of 186 deer sent for testing had been returned and no additional deer since September have been confirmed as carrying CWD. The Director said deer continue to be sampled in the area and sent to the University of Minnesota, which has one of 26 labs in the nation certified to run diagnostic tests for the disease. Since West Virginia has been identified as a priority state in this matter, the turnaround time for lab results is much faster and the DNR often receives results in just two weeks.

The DNR has fully implemented the CWD Response Plan, which includes: determining distribution and prevalence through continued surveillance and sampling of road-kill, crop-damage deer and hunter-harvested deer through a voluntary cooperation with hunters in Hampshire County this year; providing for coordination among agencies and delivering accurate information to the public through various outlets, including news releases and brochures; and, reducing the risk of spread, preventing further introduction and ultimately eliminating CWD.

The DNR also has reminded hunters of the legislative rule that restricts the importation of deer and elk carcasses and parts into West Virginia from a state or province that has diagnosed CWD; however, there are certain exceptions, including meat from which all bones have been removed.

In addition, the DNR recommends avoiding consuming meat from any deer that tests positive for the disease or is obviously sick and requests that citizens report visibly unhealthy deer to the DNR; however, they remind citizens that although a deer may be skinny or appear sick, it may not have CWD. The DNR also is requesting that hunters in Hampshire County do not take deer out of the county.

The Assistant Chief of Wildlife Resources then provided lawmakers with an overview of the 2005 West Virginia Mast Survey and Hunting Outlook, which determined the mast abundance of trees and shrubs. The survey covered 250 locations, encompassing all regions of the state, and revealed that for the first time in the last five years, the mast index is just above average. In the survey, it was noted that the increase likely was a result of dry conditions in the early Spring followed by rain in late May.

December

An update on Chronic Wasting Disease (CWD) was provided to the committee by the Director of the Division of Natural Resources. Because the disease can spread spontaneously, progresses very slowly and is carried for a long time, the division continues to compile data regarding the health of state deer in monitored counties, particularly Hampshire.

Chronic Wasting Disease is spread from deer to deer by nose-to-nose contact. Because of its stealth, there is no way presently to prevent CWD’s spread unless every deer in the state is eradicated. With deer hunting bringing in \$230 to 250 million a year, the director said the best way to deal with the problem is to catalog deer deaths and continue to sample carcasses on a long term basis.

A contingent of the membership of the West Virginia Deer Farm Association also attended the meeting. Upon invitation of the committee, they will address in January, the effects CWD and its affects on deer farming.

Also appearing before the committee was the West Virginia Parks’ Assistant Chief. In his power point presentation regarding the progress of maintaining the parks system, the spokesman noted several examples of innovative labor devised by limited staff. While major projects may be contracted out, jobs such as painting, landscaping, foot bridge and trail repair are oftentimes taken up with staff labor.

Select Committee A - Child Protective Services

November

Providing an overview of his proposal to create a special victims unit within the Division of Child Protective Services (CPS), a veteran State Police officer and current Cold Case Unit investigator, who maintained that his goal is not to blame CPS, spoke to attending lawmakers about the events that brought on this recommendation.

In 1993, he adopted a boy whose sister was killed by her mother's boyfriend at the age of two. Upon adopting his son, the officer began investigating the case on his own and found that despite repeated incidents in the home and the subsequent death, law-enforcement agencies were never notified of abuse and the man was found guilty of a misdemeanor, serving only 10 years in jail.

The unit he is proposing would be comprised of retired law-enforcement officers with backgrounds in criminal investigation. Having the ability to arrest, search and seizure, these officers would serve as liaisons among CPS, law enforcement and prosecuting attorneys. While they wouldn't be the first responders, he said, they would be assigned to the toughest cases that command someone who can enforce the law.

The committee discussed whether or not CPS is the appropriate location for such a unit and discussed possibly placing it within the State Police or the Department of Public Safety. In December, lawmakers will be provided with draft legislation to consider and will likely hear from representatives of the Child Fatality Review Team and the State Police on this issue.

December

During the December Interim meetings, staff counsel presented draft versions of four pieces of legislation that will be presented to the Legislature for consideration during the 2006 Regular Session.

The first bill would create an Office of Family and Child Protection Ombudsman. The Ombudsman would be charged with coordinating efforts on behalf of children and families involved in abuse and neglect matters. The Ombudsman would be appointed by the Governor with the advice and consent of the Senate to an initial term of three years.

Another proposal discussed would create a new special victims unit within the State Police to investigate child abuse in West Virginia. A six-member unit within the State Police would assign five troopers to that many regions of CPS, with a director over them. The six member unit then would

focus on child abuse and neglect cases and help assist Child Protective Services in identifying criminal violation when and where they may occur.

The third measure would relate to examining prenatal exposure to drugs and alcohol and include prenatal exposure of methamphetamine and other illegal drugs as well as alcohol to the definition of child abuse. The Department of Health and Human Resources, stated that there are roughly 65 meth referrals monthly, but that doesn't mean an exact number of addicted infants, since some children are covered in multiple reports.

Finally, a fourth proposed bill would set up a registry of convicted child abusers similar to the registry of sex offenders maintained by the State Police. An internal registry of such offenders would be used to track them within various agencies of government, it was explained. It wouldn't however be available to the public, drawing a distinction between the proposal and the current sex offender registry that appears on-line.

A representative from the Department of Health and Human Resources stated creating a registry would be helpful but said the special State Police unit shouldn't be viewed as the sole realm for digging into abuse, and must be used in coordination with other agencies.

Select Committee B - Juvenile Studies

December

Out-of-state placements of juvenile offenders who have high-end behavioral health issues continue to be an area of concern because of the variables attached to the practice.

While the Executive Director and Vice-President of Residential and Education Service - a Prospective West Virginia Child Care Agency Provider - told lawmakers some problems are associated with lack of treatment for foster care children once they return to a community, the Secretary of Health and Human Resources (DHHR) said part of the complexity of resolution is out of the division's hands and is in the hands of the court system. The majority of youth place out-of-state come through the Juvenile Court System and the average length of stay is less than one year.

According to material provided to lawmakers, the minimal annual cost of sending children out-of-state is \$23 million. On the average, 3,000 children are placed in out-of-home settings for mental health treatment relative to abuse of drugs or alcohol or for themselves as victims of abuse or severe

neglect. Of these, 400 are sent to out-of-state facilities. It is the belief of many that in-state placements, particularly community-based care is the best plan for the recovery of these youth, according to data provided.

Having seen 15 years of unworkable plans put before lawmakers, the DHHR Secretary said the passage of HB 2334 of 2005 which called for the creation of a commission to study out-of-state placement of children, provided study topics; and required certain reporting requirements on specific goals, was also extensive in nature. However, she also noted headway is being made and a list of recommendations will be made on or soon after the Council meets on Jan. 18th, 2006.

Select Committee C - Infrastructure

November

Lawmakers attending the Infrastructure Committee heard from both public and private experts regarding policies and issues relative to uses of West Virginia's energy sources.

The Chairman of the Governor's Energy Task Force, in operation for approximately six weeks as of Nov. 30, 2005, provided information on its Coal Conversion Initiative. In play for three weeks, the initiative focuses on one of its components, polygeneration facilities. The task force will emphasize multiple products that are created through the co-production of fuels and chemicals. Economies of scale allow polygen plants to be more economical and a variety of co-production technologies are considered commercial.

In a global economy, the Task Force believes that the demand for energy will continue to rise. Improved technologies reduce the cost of transforming alternative fuels such as coal into other fuel forms such as liquid fuels, synthetic natural gas and feedstock for chemicals. Although the polygen plants should be independently owned, a private-public start-up could keep West Virginia's coal products in the front line for creative energy uses. Coal can provide alternative fuels to help keep our domestic energy-intensive industries viable.

December

Monitoring the progress of the wireless enhanced 911 (E911) legislation passed during the 2005 Regular Session, lawmakers heard from a Technical Analyst from the Public Service Commission (PSC), Utilities Division. He spoke about legislative rules the PSC was authorized to implement to govern the collection and disbursement of the E911 fee, which the legislation raised.

The Legislature earmarked ten cents of the fee, per subscription, per month, for the West Virginia State Police and designated one million dollars of the fee for the construction of wireless towers. It also established the E911 Wireless Tower Access Assistance Fund to be administered by the PSC, which is authorized to provide loans and matching grants from the fund.

The PSC issued an order on June 28 creating a task force charged with developing proposed emergency rules. On October 7, the task force filed its final report that included the proposed rules to be used for implementing the provisions of the legislation. The PSC is required to provide for a public comment period regarding the emergency rules.

The Director of Homeland Security and Emergency Management then appeared before the committee to review the West Virginia Homeland Security / Public Safety Communications Infrastructure and Interoperable Radio Project. He noted that two years ago, federal funding was allocated for a similar project in Monongalia, Marion and Harrison Counties. Because of its success, an Executive Order was issued to expand it through the southern part of the state and upward through Parkersburg.

He said it would take three to four more years to cover the entire state, as the general goal of the project is to create and carry out a statewide public safety communications infrastructure. This would address the needs of all public safety agencies at the local, county, state and federal levels.

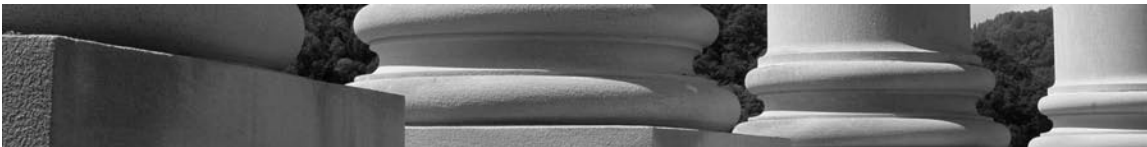
The final presenter was the Education Technology Director for the Governor's Office, who said a student-teacher "speak-up" day, was held. Through comments received, three strategic imperatives for West Virginia's schools were identified.

First, schools need updated computers, as 60,000 of the schools' 90,000 computers are out-of-date. The second imperative is technical support because, as she noted, only 7 percent of schools have full-time technical support. Third, professional development is needed to prepare teachers to better integrate technology into education.

A meeting will be held with the West Virginia Department of Education to determine what the state can do in advancing these three initiatives.

During the committee's second meeting of the December Interims, members heard a report outlining the Virginia Public-Private Education Facilities and Infrastructure Act of 2002.

It was reported to the committee that public-private partnerships respond to the public need for timely action regarding



procurement of public infrastructure, which may not be wholly satisfied by existing forms of government. These partnerships also respond to inadequate financial resources needed to develop necessary projects.

The four primary focuses of this type of legislation include: timeliness of the projects; private funding and private risk providing another source of capital; creative financing so no new money is needed, and; a new vision and innovation incorporating a more global focus.

The legislation provided that an entity meet three criteria for projects to be approved. First, a public need for, or benefit derived from the proposed project must be realized. Second, an estimated cost of the project must be reasonable in relation to similar projects. Finally, the plans must result in the timely acquisition, design, construction, etc. of the project.

The committee will continue to look for ways for West Virginia to utilize these ideas as well as innovate financing for future state projects.

Select Committee D - Minority Issues

December

A statute is in effect for law enforcement officers to collect data on traffic stops. However, since its passage in 2004, an emergency rule to implement the program designed to keep a check on incidents alleged to involve racial profiling, has been made void.

During its brief existence, the emergency rule raised concerns with law enforcement officials who believed the data taking was cumbersome. During a traffic stop, police officers were to gather a variety of information such as race, gender, age, hour of the stop, if dogs were used, if people were searched, if contraband were found, among others. Officers were to catalog the data by filling out circles on computerized punch cards similar to those used in standardized testing. Too, each officer was to fill out where the stop occurred. One point of contention was were they to carry maps provided in binders to pinpoint the location and was the location determined by a census track or a census block.

Members of the Senate Judiciary Committee in 2005 took up the emergency rule and amended it to allow officers to use numbers assigned to them by their commanding officer instead of using their names, and additional changes in authorizations used to search a vehicle. The amended version of the rule did not meet the approval of the full committee, which made the rule null.

Prior to the January Session, the Minority Issues Committee will hear from the Director of the WV Criminal Justice Statistical Analysis Center and the Executive Director of the Governor's Committee on Crime, Delinquency and Correction Rule to fine-tune what lawmakers hope will be a rule which addresses both the concerns of law enforcement officers and the Governor's committee. Their goal is to ensure racial profiling is not active in West Virginia.

View Interim Schedules on the Legislature's website: <http://www.legis.state.wv.us>

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