

Vol. X, Issue 6  
October 2008

West Virginia Legislature's  
Office of Reference & Information

# Interim Highlights

## Agriculture & Agri-Business

### Switch grass

The Director of the West Virginia Water Research Institute informed committee members on the Switch Grass Research Project being conducted throughout the state.

According to the National Sustainable Agriculture Information Service, "switch grass is a native warm-season, perennial grass indigenous to the Central and North American tall-grass prairie into Canada. The plant is an immense biomass producer that can reach heights of 10 feet or more. Its high cellulosic content makes switch grass a candidate for ethanol production as well as a combustion fuel source for power production."

West Virginia's Switch Grass Research Project, which just recently received a \$550,000 award from the U.S. Environmental Protection Agency, is currently conducting research on how sustainable the switch grass would be in the state by using previously mined lands that have qualified as brown-fields, or properties that were previously used for industrial or commercial activity. According to the WV Water Research Institute, there is currently 54,000 acres of reclaimed land in Appalachia alone.

The Director told the committee that switch grass would be an excellent option not only for creating bio-fuels but also as another alternative for farming because it is a good source for hay. He also told the committee that West Virginia is a perfect location for growing switch grass on unclaimed lands because it is centrally located, has the right climate for switch grass to grow, and has plenty of unclaimed lands to use.

Because it is a tall grass, the Director told the committee that switch grass would provide better shelter for West Virginia wildlife and also suitable hunting grounds.

The West Virginia Water Research Institute currently has three nine-acre switch grass plots throughout the state.

### Interim Meeting Schedule & Agendas

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



*Senate President Earl Ray Tomblin and House Speaker Richard Thompson co-chair the Joint Committee on Government & Finance meeting held October 14th, 2008. Consisting of leadership and major committee chairs from both chambers, the committee is responsible for the overall administration and operation of the legislature.*

photo: Martin Valent

## Broadband - Select Committee E

The Cabinet Secretary for the Department of Commerce updated the committee on the progress of the broadband program and the Chairman of the West Virginia Telehealth Alliance gave a presentation on their progress.

The Cabinet Secretary told the committee that the Broadband Deployment Council as well as a Vice President has been appointed by the Governor. She reiterated that her focus is on enhancing the fringes in West Virginia where broadband is available while addressing rural areas that still cannot get broadband coverage.

The Chairman of the West Virginia Telehealth Alliance has developed a telehealth program and he discussed his organization's progress and objectives for the future. The alliance wants to interconnect all state and region wide broadband health care networks while facilitating electronic health information. These steps would improve rural health care in West Virginia.

Eligible entities for this technological program include rural health care centers, free clinics, critical access hospitals, medical teaching institutions, county health departments, school-based clinics and emergency rooms.



This program, with its electronic patient data connected to every health care system in the state, would help all citizens in rural West Virginia receive better care. Specialists in Morgantown or Charleston would be able to diagnose and follow up with a patient located anywhere in the state. In the case of an emergency such as a stroke or prenatal trauma, a specialist from another area could connect to this system, access the patient's records and stabilize them.

Children, Juveniles & Other Issues, Select Committee A

**In-Home Family Education**

The Committee on Children, Juvenile and Other Issues heard from the Chair of the Partners in Community organization regarding In-Home Family Education during this month's interim meeting.

In-Home Family Education programs, all of which are voluntary, help children get a good start in life by providing parents with information, support and referrals to needed services. The Chair of Partners in Community informed the committee that research has shown that these programs improve children's health, increase school readiness, reduces child abuse, and enhance parenting knowledge and skills.

The programs operating within In-Home Family Education include Healthy Family America, Maternal Infant Health Outreach Workers, and Parents as Teachers and currently serve families in 17 counties.

One of the issues addressed during the presentation was low birth weight. According to the WV Department of Health and Human Resources birth weight is the single most important predictor of survival. A low birth weight is defined as a weight of less than 5.5 lbs. at birth and may result from pre-term birth and/or poor fetal growth for a given duration of pregnancy. Most infant deaths are associated with low birth weights. Risk factors for low birth weight babies include:

- previous pre-term and/or low birth weight birth
- multiple births
- smoking
- unplanned pregnancy
- infections
- poor nutrition
- lack of access to adequate and early prenatal care
- harmful substance abuse
- domestic violence

Besides possible health complications for the child, hospital costs for low birth weight infants are \$78,589 per case

according to inpatient data compiled by the West Virginia Health Care Review Authority. Hospital stays for low birth weight (under 1,000 grams) newborns costs families an average of \$246,988. Partners in Community believe that In-Home Family Education programs educate and inform expectant parents on issues such as these.

After a recent additional appropriation of \$250,000 by the Legislature, In-Home Family Education receives \$750,000 in state funds annually. The increase in funding will allow the programs to serve over 1,000 families this year, an increase of 43 percent compared to last year.

Through these programs, the Chair informed the committee that In-Home Family Education in West Virginia could total a savings of \$250 million annually simply by reducing the number of low birth weight babies, increased immunization rates, and reductions in child maltreatment.

The goal of Partners in Community Outreach is to make In-Home Family Education available statewide, but to do that more funding is needed. The Chair of the organization requested that the Legislature appropriate an additional \$1.25 million, \$2 million total, in order to expand the programs and serve approximately 2,000 families throughout West Virginia.

There are currently no qualifying economic criteria for these programs. Further information can be obtained on the Partners in Community Outreach website at [www.wvpartners.org](http://www.wvpartners.org).

Economic Development, Joint Commission on

The Secretary of the West Virginia Department of Commerce provided a summary of economic achievements since 2005 to members of the Joint Commission on Economic Development.

According to the spokesperson, since 2005, more than \$8.3 billion has been invested in state businesses including more than \$56 million in loans.

These investments have resulted in a \$106 million surplus for the WV Department of Commerce and a net increase of an estimated 22,800 jobs.

The West Virginia Economic Development Authority (WVEDA) conservatively invests. It provides assistance and loans to existing or prospective state businesses with fixed assets under a review/approval process.



Its 49 existing loans total approximately \$60 million but it has attracted approximately \$83 million in investments and 1,197 jobs.

Its delinquencies consist of four loans which amount to approximately \$770,000, but the four at-fault businesses are restructuring, extending the loans or going into bankruptcy with general buildings in tact. The WVEDA expects to be repaid by selling lots in one instance.

The Infrastructure and Jobs Development Council (IJDC) provides funding to buy land, buildings, and equipment, build facilities, install utilities and improve or expand existing sites. Criteria to qualify for a loan must include public health considerations, economic development purposes, regulatory compliance and readiness in operating a business.

The loans offered through IJDC offer prime loan rates for private industry and lower rates for political organizations.

Presently, 11 projects are being funded at \$27 million, which have attracted \$167 million in investments, created 400 jobs and retained 650. There are two defaults, which account for a \$3.5 million loss.

One loan went into default because of lost federal funding brought about because the permitting process took too long.

Lawmakers sought information on the release of \$500 million that is inactive because projects are not yet approved. Also, the state needs to safeguard against CEO bonuses, according to some commission members.

The development authority is seeking tax credit reform legislation, the spokesperson told the committee. According to the representative, “a slew of tax credits seek a simple tax procedure.”

A summary of tax credits provided by the state tax department note that “investment tax credits play smaller roles over time in state finances, significant reforms date back to 1990, tax rate reductions effectively reduce the value of tax credits except for refundable/transferable programs and major new programs require application and contain recapture provisions.

In other matters, the Commerce Secretary was asked to provide the committee with information on water and sewer systems and also to provide a listing of community projects and accompanying costs.

### Education Subcommittee A - Public Education

The committee heard a presentation from the President of the School Library Division of the West Virginia Library Association as well as an update from the President of the School Boards Association.

The President of the School Library Division addressed her concerns over the status of librarians and their roles in public schools throughout West Virginia. It is their position that every school needs a librarian to capitalize on the youthful exuberance for reading that often develops lifelong readers and learners.

She quoted research that showed that students accomplished more if exposed to a quality librarian at all levels of their education. She explained many librarians in the state help their schools transition from a textbook style classroom to a technology based one. Librarians in many schools post educational links for their students to research as well as their teacher’s lesson plans for the week. Blogs have also been introduced by librarians in the state. These blogs ask a student an entertaining question and then encourages them to write a long, well thought out response, often giving students with previously no interest in writing a reason to develop those skills.

It became obvious during the meeting that our current school librarian system is in crisis. The ratio of students to librarians in West Virginia schools grades K-12 now stands at 778:1. Only 50 percent of counties have school librarians and 48,566 elementary school students in the state do not have a library to help supplement their education. There is also no Department of Education staff charged with coordinating school librarians statewide.

The School Library Division is requesting legislative funding to help require a full-time certified librarian in every state school. They also want a statewide job description that does not include covering for other teachers and performing duties that they have no expertise in. They believe this statewide job description would help dispel the perception that librarians are not busy and don’t serve a real purpose in the school. Some counties in West Virginia receive library funding and others do not. The division is calling for appropriated library funding for all counties.

The President of the School Boards Association expressed his concerns over feeling like the middleman between county school boards and superintendents. He emphasized the need for communication and productive discourse between county superintendents and school boards. He also dis-



## Interim Highlights

cussed the need to look for more qualified superintendent candidates by seeking out leadership academies and other resources. Recently the Harrison county superintendent resigned and only two candidates applied.

He also addressed the shortage of principals and teachers and said the state needs to look at other ways to attract qualified candidates to those positions.

Finally, school board members are upset with their pay scale and would like to be paid on par with county commissioners. They don't like being paid per meeting and would rather be given a salary.

### Education Subcommittee B - Higher Education

#### Personnel Study

West Virginia University's Director of Employment Relations presented a report from the Performance Management Subcommittee regarding the Personnel Study, created through Senate Bill 603 from the 2005 regular session, to committee members during October interims.

The Performance Management Subcommittee, as stated in SB 603, "evaluates and recommends best practices and methods to establish salary rates for faculty, classified employees, non-classified employees and administrators as well as determining the most effective and efficient methods to train administrators who perform employee evaluations and assure they use these instruments appropriately."

During their meetings, the Performance Management Subcommittee found that the current performance management systems used at most higher education institutions failed to accomplish the main objective - to successfully identify, encourage, measure, evaluate, improve, and reward employee performance. Based on research, the subcommittee designed a performance management system to better achieve the main objectives by:

- Providing information to the employee about their performance
- Allowing the employee to participate in the evaluation process
- Identifying the employee's developmental needs at the beginning of the performance year so that the supervisor may budget for and invest in the employee's professional development
- Documenting performance for personnel records
- Measuring and evaluating individual performance based upon the employee's position

- Information questionnaire
- Providing feedback that is objective
- Rewarding an employee for exceptional performance

The Director presented a copy of the new six-part evaluation form that would be completed by the supervisor, employee or both, it includes:

- Employee pre-review, which allow the employee to describe his or her contributions to the job and the institution since the last review year
- Performance ratings, which allow the supervisor to evaluate the employee on 10 core competencies against the employee's Position Information Questionnaire.
- Goals, objectives, and expectations, which provide the supervisor an opportunity to outline specific and measurable goals and objectives for the employee for the evaluation period
- Performance Enhancement Plan, which encourages the supervisor and the employee to discuss the employee's professional development needs and growth potential.
- Comments, which provide the employee a chance to make observations about their work environment or any other issue they may have
- Future goals, which give the supervisor an opportunity to outline goals for the next evaluation period

The Director also suggested that these evaluations should be used for classified and non-classified staff, managers or supervisors should attend required training on best performance management practices, and the evaluation form should be electronic.

Another topic mentioned by the Director was the Points for Performance program designed by the Performance Management Subcommittee which would allow employees who received an overall rating of "exceeds expectations" on their evaluation form to participate in a "points reward program." The employee would be eligible, according to the Director, to select from merchandise that has certain assigned points. Though this program is still under construction, the Director told the committee that the merchandise would range from movie tickets to small trips.

Some of the members were concerned that the form was somewhat confusing which the Director informed them that this new evaluation form is being perfected.

#### Interim Meeting Schedule & Agendas

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

## Education Subcommittee C - Public School Finance

### Public School Transportation Funding

Committee members were presented with a report from West Virginia University's College of Business and Economics addressing the issue of funding for school transportation.

According to the report, there is a great need to examine how school transportation is funded including how differences in costs across school districts are addressed due to the recent increase in energy costs.

In West Virginia, public funds are used to transport 80 percent of public school students, which averages out to around \$692 per child. During the 2004-2005 school year, total transportation expenditures for all public schools in the country were \$17.4 billion. West Virginia's expenditures for transportation during the 2004-2005 school year totaled \$159 million.

A representative from WVU's College of Business and Economics told the committee that there are six methods of funding for public school transportation currently in practice throughout the country.

The first of these methods is "no state funding" which means that local school districts are responsible for providing public transportation services. The state provides basic aid for K-12 education that can be used for different services but does not explicitly provide funds for transportation. At the present time Massachusetts, Nevada, New Hampshire, Rhode Island, and Vermont use this method.

Pure block grants are another funding option being used in 11 states, with two separate policies. Some states provide block grants separate from their basic educational foundation grant while other states include transportation funds within the educational foundation grant. The purpose of these lump sum grants is intended to offset transportation costs while also providing school districts options of how the money should be efficiently and equitably spent.

Another approach to public school transportation funding is the "approved costs" method. Under this funding option, states provide reimbursement for specific cost items acquired by the transportation programs. The state provides a list of what expenditures are approved and often provides the percentage that each type of expenditure will be reimbursed. West Virginia currently uses the "approved costs" method.

The fourth approach listed in the study is the per unit allocation funding which provides a fixed amount of funding for a specified and measurable unit of service.

The expected cost approach employs standard multivariate statistical methodology in order to establish a unit value for pupil transportation activities and demographic and/or geographic differences. This method is designed to promote certain behaviors that reduce transportation costs while increasing efficiency.

The last approach listed in the study is the efficiency method, which establishes a minimum expenditure level for each school district based on the number of pupils transported, and the number of buses used.

WVU's study shows that West Virginia's largest expenditure for public school transportation has been personnel salaries at 45.9 percent, followed by employee benefits at 21.9 percent. Vehicle supply expenditures account for 14.4 percent of transportation funding.

The representative from WVU pointed out to the committee that transportation expenditures vary throughout the state. During the 2005-2007 school year, Kanawha county received \$13,425,026 in expenditures compared to Gilmer County's \$831,984.

House Bill 4588, passed during the 2008 regular session, was also mentioned in the study in order to show the changes being made to school transportation funding in West Virginia. Since the passage of HB 4588, there has been an increase in funding for approximately 50 of the 55 counties and all West Virginia counties have received foundation allowances above 85 percent. According to the WVU representative it is unclear as to how effective the changes provided in HB 4588 will be regarding school transportation funding until it is completely phased-in over the next five years.

## LOCEA

The committee heard a report from the State Superintendent of Schools. The basis of the report was an initiative that requires all county superintendents to submit an addendum at the end of the year to show how their county's schools are progressing from the old, textbook oriented classroom to a more 21st century driven classroom that focuses on the use of technology.

The superintendent made it clear that there is no frantic rush to get this done and that he just wants to see that consistent progress is being made. He does not want the plan thrown together quickly, but instead wants the county superintendents, their faculty and staff to sit down and carefully plan this process and begin making progress.



The superintendent realizes that some counties will be much further along in the process than others and he believes one of the main keys to getting started is to set up time for teachers to do professional development and talk with each other about effective plans for transferring to a technology based classroom.

The superintendent added that it is fine for counties to admit where they are, no matter how far behind they may be. Starting the process will allow counties to assess what problems they may face so they can get the appropriate help they need. The superintendent also pointed out that counties could share solutions to similar problems throughout this process of transformation.

### Higher Education - Capital Projects & Facilities

In 2008, the Legislature directed the Joint Committee on Government and Finance to create a committee to make a detailed analysis of higher education capital and facilities issues and provide recommendations to the Legislature to address certain needs.

According to the material provided to the legislative committee, in Senate Bill 595 (Vision 2020), among other things, this committee was charged to examine:

- capital project and facilities maintenance needs;
- the appropriate capital debt load that reasonably should be maintained by the Higher Education Policy Commission (HEPC), The Council for Community and Technical College (CTC) Education, and public higher education institutions under their jurisdiction;
- recommendations to reduce student obligations for debt service, capital projects and facilities maintenance;
- deferred maintenance; and,
- priorities for funding capital projects.

During the October meeting, a report of the Deferred Maintenance Subcommittee was presented to lawmakers regarding its six recommendations regarding higher education facility construction, repair and maintenance costs as well as The Community Technical College (CTC) bonding proposal update.

And, a summary of 17 suggested recommendations and notification of the preparation of the final report of the Higher Education Capital Projects and Facilities Needs Committee was delivered to the committee. The overall report will be finalized prior to the November Interim meetings and will be presented to legislative leadership on Tuesday, November 18th.

### Higher Education - Deferred Maintenance Subcommittee

Lawmakers heard and discussed the six recommendations offered for consideration to the committee and that will now go to the Higher Education Capital Projects & Facilities Needs Committee. They also discussed the potential implications if these recommendations were adopted.

Below are abbreviated versions of each of the six recommendations presented:

- 1.) Move from one-time funding, which rewards institutions that are not properly investing in maintenance, to a systematic approach that requires confirmed annual investments.
- 2.) If the Legislature takes primary responsibility for financing most new educational and general buildings and major renovations, institutions must ensure that these facilities are maintained adequately.
- 3.) Guarantee that sufficient capital revenues are available for maintenance.
- 4.) Guarantee that institutions utilize E&G and Auxiliary Capital funds properly.
- 5.) Consider one-time funding to remove obsolete facilities from institution inventories.
- 6.) Alternatively or concurrently with recommendation No. 4, the Code should specify for what E&G and Auxiliary Capital Fees may be used and to ensure they are being used for these purposes, requiring institution reporting, and project monitoring and audits by Commission and Council.

### Equal Pay Commission

The Assistant Director of Employee Communications and Information from the Division of Personnel issued a proposal to the members of the Equal Pay Commission regarding distribution of the Equal Pay Appropriation.

There is currently \$250,000 in funding to spend, according to the assistant director, who outlined which workers should receive pay increases.

The commission plans to vote on the distribution of the funding during next month's interim meeting.

### Finance Subcommittee A

“Fairs and festivals are an incredible testament to the power of volunteers. The majority of our events do not have paid staff and succeed because West Virginians volunteer their time. This volunteer spirit is unmatched in any other tourism segment” - The Importance of Fairs and Festivals to the State of West Virginia - WV Association of Fairs and Festivals Board of Directors

Citing economic (WV State Fair, \$1.3 mil. in taxes, \$8.9 to Greenbrier Co., 95-full year jobs; Mountain State Forest Festival, overall impact to state and region of \$25.8 million; Pumpkin Festival, \$5 mil. impact to region, for examples), social, educational and recreational impacts, the WV fairs association provided a variety of suggestions to the legislative committee to better assist in the association’s efforts in putting together the events. The organization is also requesting the development of accounting procedures to follow the expenditures of individual fairs and festivals.

Spokespersons representing the Pumpkin Festival, the State Fair, the Barbour County Fair, the Little Level’s Heritage Fair, the Mountain State Forest Festival, the WV Strawberry Festival, the Putnam County Fair and the Mountain State Arts and Crafts Fair cited their financial contributions, the costs of their events, the activities and man-hours involved to lawmakers. As members of the WV Association of Fairs and Festivals, the spokespersons offered the following funding suggestions:

- direct funding to the Dept. of Agriculture for events that have agricultural oriented projects and shows
- direct funding to the Dept. of Culture and History for fairs that have traditional events designed to educate and promote WV historical culture.
- designate funding for matching advertising grants devoid of conflicts of interest
- establish a format for distribution of fair and festival funding
- base funding on improvements
- have fairs and festivals complete a formal form before funding is allocated
- set aside funding for special anniversaries (50th or 75th)
- provide oversight in the distribution of funding and provide assistance to organizers
- consider insurance coverage by the Board of Risk and Insurance Management
- inform the fair association of legislation affecting funding of the fair industry
- develop educational volunteer programs to better promote the state

- reduction in sales tax in lieu of funding in certain circumstances
- provide equal representation of the WV fair association in the tourism industry
- provide volunteers with information, entertainment options, workshops and promotional opportunities.

The WV Association of Fairs and Festivals Board will continue contact with state lawmakers.

### Finance Subcommittee C

The committee heard a discussion of PEIA allocation of legislative appropriations for fiscal year 2009. There is a 19 percent increase in premiums for next year. Every entity in the system is looking at ways to improve the system. They are exploring an actuarial study of post-retirement health benefits as well as looking at each county’s health care program and talking to county auditors on the subject.

Officials in charge of PEIA are looking at whether an actuarial study compares state agencies to non-state agencies while looking at the future of health benefits. These officials realize it is difficult to change current PEIA regulations and are instead looking at changes for future hires. The intertwining of PEIA and other retirement systems makes dealing with PEIA a complex and difficult issue in West Virginia.

Many agencies are concerned with an accounting principle that is putting them in a money crunch and forcing them to owe thousands of dollars to PEIA. While they are told they do not have to pay these debts because they are categorized as an unfunded liability, they still have to set the money aside in case the day comes when they do have to pay the debt. This prevents some state agencies from expanding other services and could hurt their ability to borrow money in the future because they still have to claim this money as an unpaid debt.

### Forest Management Review Commission

#### 2008 Farm Bill

West Virginia’s Director of Forestry presented the commission with possible opportunities that have arrived for forestry through the 2008 Farm Bill.

Passed on June 19th by Congress, the new farm bill provides critical funding for several programs and makes improve-



ments to increase program efficiencies and effectiveness, according to American Farmland Trust.

The Director of Forestry told the commission that one of the programs, EQIP, would provide \$1.2 to \$1.75 billion in national funding until 2012. Another program through the farm bill will give West Virginia \$3.2 million in funding for forestry. The Director, along with a representative from the National Resource Conservation Service also told the commission that they have set up a new cooperation agreement with one another in order to offer assistance on implementing the new farm bill program on West Virginia private forest lands.

The commission also heard from a representative with the U.S. Forests Service regarding the "Forest Legacy Program" which ensures sustainable management of non-Federal forest lands throughout the country.

## Joint Standing Committee on Government Organization, Select Committee C - Infrastructure (Joint Meeting)

The Secretary of the Department of Administration, the Special Assistant to the Governor and the Director of the Division of Personnel addressed the joint committees regarding the retention and replacement of state employees.

According to the presenters, a classification system project has been undertaken in a contract with the nationally recognized Hay Group. West Virginia's state employee classifications haven't been updated since 1993.

The Hay Group's point factor system is based on: know-how, problem solving and accountability. It will focus on compensation using past, present and future perspectives.

Job evaluations will be concerned with internal alignment of classifications based on differences in job content. Their final result, according to material provided, will be a classification and compensation plan that is internally fair and externally competitive.

The project is expected to be finalized no later than July 2010 at a cost of \$295,000. The findings will be phased in based on available revenues, according to the presenters.

In other matters, the executive representatives assessed myths and truths regarding issues relative to the Division of Highways' engineers:

*Myth: about 70% of engineers will be eligible to retire within 5 years*

*Fact: 21% presently eligible to retire; 25% within the next 5 years.*

*Myth: engineers in WV are the lowest paid in the nation*  
*Fact: pay increase for 286 engineers on 5-1-08 moved the group from being ranked 50th on a national basis to 43rd.*

*Myth: on national basis, ranking of job classifications should be lower*

*Fact: based on national per capita basis, 43rd is appropriate for a state which ranks 49th per capita for personal income.*

Regarding the retention efforts and recruitment initiatives undertaken by the executive branch agencies, it was noted by the representatives that retention trends indicate that it is common in any business industry for turnover of employees. Material provided by the spokespersons note that WV state government employee turnover rate is 9.98 percent compared to the national government turnover rate of 16.7 percent.

The group also provided a listing of pay increases for certain jobs from Nov. of 2005 to July 08 and noted the annual increment provided to all state employees was raised from \$50 to \$60 per year served.

Presently, lawmakers were informed, there is a strategy in the works to revise or modify current freezes on merit pay raises and a proposal being reviewed to implement a merit pay raise system.

However, until the Hay Group comes up with its overall findings, government managers will have to work within certain means that may or may not change within the next year and a half.

## Government Organization - Subcommittee A

The committee heard a discussion of HCR 87, requesting that the Joint Committee on Government and Finance authorize a study on the adoption of green building standards.

The House Majority Leader for the Kentucky State Legislature was on hand to talk about energy legislation in his state. He discussed House Bill 2, an energy plan that was titled Kentucky Bluegrass Turns Green, and the effects it had on the state's energy consumption. Kentucky currently ranks fourth in the nation in cheapest energy.

He discussed how Kentucky is committed to being a leader in energy and how he thinks West Virginia could partner with them in these initiatives. His goal is to create a new energy efficient economy that demands business and en-



gineers. He emphasized that if the colleges and universities in these states continue to churn out engineers at the current rate there needs to be a place for them to work. If the economy does not match the student curriculum we are wasting our time.

The energy plan in Kentucky is designed to create new jobs, while saving the taxpayer money and benefiting the environment. He finished by emphasizing that every penny saved from the House Bill 2 energy plan could be put back into other energy conservation programs and initiatives.

## Government Organization - Subcommittee D

The committee heard more on the governor’s proposal to eliminate the West Virginia Racing Commission and expand the current Lottery Commission into a Gaming Commission that would regulate all forms of state-sanctioned gambling.

It became clear to the committee the Racing Commission is in total disarray as lawmakers were told by one commissioner the three-member board recently had their chairman resign and that another member rarely attends meetings.

The governor’s administration officials want the single Gaming Commission to consolidate services that are duplicated at the racetracks, with both Lottery and Racing Commission employees having responsibility for matters such as security and licensing.

Under the proposal, the seven-member commission would have one member with a background as a veterinarian or in the agricultural sciences, but representatives from both the thoroughbred horse and greyhound breeders associations told the interim committee that they want industry representatives on the board.

While the vast majority of lawmakers agree that something needs to be done to reform the Racing Commission, some are afraid that if racing is placed under the umbrella of the Gaming Commission it will take a back seat to other forms of gaming.

One lawmaker expressed that even if all gambling regulation is consolidated under one agency, it still will not fix the fundamental problem that he believes has plagued racing in West Virginia for years: that the governors have constantly appointed political supporters to the Racing Commission, not people with experience in the thoroughbred horse or greyhound racing industries. He believes that given the

proper, well thought out appointments of industry experts, the Racing Commission could govern its respective sports as a functional body.

## Health, Select Committee D

The committee heard the results of a recent poll done for the Healthy Future Campaign as well as updates with working chairs of the Roadmap to Health Project.

The poll conducted from a pool of 625 likely voters, using the same polling system that the governor uses, showed a clear desire for healthcare reform in West Virginia. Just over 60 percent of the participants said that the current health care system in state is not good and 45 percent are worried about rising health care costs. A vast majority of responders, 88 percent, want health care reform and coverage for all West Virginia citizens.

While it is obvious that responders are calling for reform, it is important to note that 85 percent of them said they have health insurance and 83 percent of them are satisfied with the health care they are getting. Likely voters were the subject of the poll and they are more likely to have health insurance than non-voters.

A consultant to the West Virginia Legislature for Health Care Reform discussed, along with the working chairs, the status of the Roadmap for Health Project and where it is going in the future. The chairs noted that 75 percent of health care cost in West Virginia goes to the treatment of chronically ill patients, which highlights the importance of preventative medicine.

The project wants to redesign the system to manage chronic illness while trying to prevent it before it begins. It also plans to implement initiatives to deal with smoking and the obesity problem that plagues our state. They also want to make the system simpler while acquiring the basic data tools to track and manage a patient through the system through the proliferation of digital health data systems. Only about 15 percent of physicians in the state are currently using computerized data or electronic medical records.

Preventative medicine starts with a healthy lifestyle during childhood and the project is spearheading a drive for wellness and prevention in West Virginia. The project is encouraging municipalities to seek funding for the construction and maintenance of hiking, walking and biking trails as well as playgrounds.



The project also wants registered dieticians to be in state schools on a regional basis to help come up with healthy food options. Schools would also likely need to be subsidized for the additional cost of these healthier, less fattening items. The project is also encouraging employers to work physical activity breaks into their employees' days while making sure there is a healthy option for their workers either in the vending machine or cafeteria.

**LOCHHRA**

**Medicaid Reform Study**

The Deputy Executive Director of the Georgetown Center for Children and Families spoke to the committee on the recent analysis on Medicaid Reform done at Georgetown University during October's interim meeting.

The report by Georgetown University states that the "Medicaid Redesign" in West Virginia restricts access to certain health care services if Medicaid beneficiaries do not sign and/or comply with a "personal responsibility" agreement. Beneficiaries must sign with their doctors, promising that they will comply with a health improvement plan."

According to the analysis report, Medicaid reform in West Virginia has resulted in limiting benefits primarily for children with no discernible impact on the stated goals (in the new Medicaid reform) of improving beneficiaries' health and increasing healthy behavior." the Deputy Director said.

Children represent the vast majority, 85 percent, of those affected by these changes, the Deputy Director said. She also told the committee that the changes have not had any discernible impact on healthy behaviors.

Around 93 percent of parents whose children receive Medicaid have not signed the personal responsibility agreement. While the reasoning behind this is unsure, the analysis report suggested poor implementation as a major contributing factor. A parent has 90 days to sign and if they do not they must remain in the more basic and restrictive plan for one year.

A representative with West Virginia Medicaid also addressed the committee to rebut some of the claims the Georgetown University presented.

The Medicaid Redesign, or Mountain Health Choices, "ensures that members receive the right care at the right time, by the right provider. Members now have a choice of benefit plans. Members who are eligible for Mountain Health

Choices may choose between the Basic and the Enhanced benefit plan. Members who are not eligible for Mountain Health Choices continue to be served by traditional Medicaid," the representative said. Currently, there are 133,000 individuals eligible for Mountain Health Choice.

The representative with WV Medicaid also told the committee that a family has a five-month window in determining whether they want to be enrolled in the program instead of 90 days like the Georgetown University report suggested.

**Judiciary Subcommittee A**

**Filing of Legislative Rules Electronically**

Legislative counsel presented committee members with draft legislation authorizing the Secretary of State to require state agencies and boards to file legislative rules electronically. After establishing a quorum, the committee voted passage of the legislation where it will receive further consideration during next year's regular session.

Counsel also encouraged discussion amongst the committee regarding alternatives for streamlining the legislative rule-making process. There have been concerns raised that the current rule-making process creates a log jam because of current code that states that these rules must be due on the 20th day of session instead of earlier.

One suggestion raised during the discussion is to ready additional reports and have them prepared during the first week of session. This would mean that 60 to 70 percent of the rules would be presented during the first week of session.

**Judiciary Subcommittee C**

**West Virginia Drug Courts**

Administrative Counsel for the West Virginia Supreme Court of Appeals addressed committee members on the state's drug courts.

A drug court, according to a pamphlet distributed by the National Association of Drug Court Professionals, is a special court that is given the responsibility to handle cases involving drug-using offenders through comprehensive supervision, drug testing, treatment services and immediate sanctions and incentives.

There are currently 10 drug courts in West Virginia; seven in the Northern Panhandle, two in the Southern district and



one located in the west-central part of the state. West Virginia also has two juvenile drug courts in Cabell and Wayne counties.

The Northern Panhandle drug courts were established in 2005 and cover five counties: Hancock, Brooke, Ohio, Marshall, and Wetzel. The Southern Region drug courts were established in 2006 and covers Mercer and Raleigh counties and their surrounding areas. The West Central Regional Drug Court was established in 2007. Based in Parkersburg, the court covers Wood, Wirt, Pleasants, Ritchie, and Doddridge counties.

According to Administrative Counsel, West Virginia drug courts are working. There have been 48 graduates of the program with a 0 to 3.7 percent re-arrest rate.

Funding for West Virginia’s drug courts comes from various sources including the Governor’s “Plan for a Drug Free West Virginia” which has funded the continuation of all drug courts in the state as well as six new startup courts. County commissions and volunteers in communities have also helped in funding the courts, administrative counsel said. The Purdue Pharma Asset Forfeiture Funds have been important resources not only for the adult drug courts but for the juvenile drug courts as well.

In order for the drug courts to become more effective, administrative counsel, lined out some ideas for the Legislature to take into consideration such as:

- laws and regulations that prevent offenders from getting treatment through drug courts should be modified
- laws and regulations that prevent individuals from getting jobs, education and other services should be reviewed and repealed
- Expand all drug courts to serve substance abusing pre and post adjudicatory offenders, probationees, and parolees.
- Expand supervision to probation officers assigned/ dedicated to drug courts
- Provide for immunity from liability for good faith service provision.
- Expand number of drug courts statewide through legislation

Administrative counsel provided the West Virginia Drug Offender Accountability and Treatment act to the committee as an example of potential legislation that would authorize the creation of more drug courts in the state and would also allow these courts to play a substantial role in fighting drug abuse in the state. “West Virginia needs drug courts due to the growth or jail and prison populations as well as

the significant increases in illicit drug use,” administrative counsel said.

Parks, Recreation & Natural Resources Subcommittee

Eastern coyotes are having their presence felt in the Mountain State. The State Game Research, Wildlife Resources Supervisor provided lawmakers with insight into the wily creatures.

Interest in coyotes has been noted because of increased hunting and trapping opportunities, human/coyote conflicts consisting of stock and crop damage and an interest in their affects on the deer population.

The social wild canines filled in the absence of timber wolves and mountain lions. According to the resource specialist, the numbers increase and decrease with the food supply. While the deer herds are not obviously affected since fewer pups are born when the deer population is decreased, small wildlife such as groundhogs fill the coyotes’ menus.

Monitoring of the population is being done by pelt sales, wildlife damage complaints, headcounts being done by bowhunters and turkey hunters. The presence of coyotes is greater in the south and southwestern portion of the state, while the Eastern panhandle has the least numbers.

The game research specialist indicated that very little could be done about the population presently. The most effective means of control is the use of a cyanide M44 device, which only the USDA can use. However, snare guides are available through the state DNR.

It was noted by lawmakers that stock owners are reimbursed for their loss of sheep if a bear gets them and want to consider some sort of reimbursement if a coyote should take stock.

Inquiries were also made regarding the lower number of stags available, but the DNR official said the data does not indicate a shortage of the male deer.

In good news provided, the state park system has taken in record revenues. According to an article provided to the committee, the Park chief said the overall system ended the year with \$22.5 million in gross revenue for FY 2008. The upswing was attributed to higher gas prices and a downturn may occur because of the present national economy.

### Select Committee on PEIA , Seniors & Long-term Care

The July 1999 *Olmstead v. LC*. Supreme Court decision, the 2001 federal New Freedom Initiative, and the Deficit Reduction Act of 2005 created impetus for state re-balancing of long term care resources between institutional care and home and community based services.

According to Arthur Lerman from the Public Consulting Group, the Money Follows the Person and Long Term Care System Re-balancing Study is designed to analyze ways “to reduce reliance on institutional care and develop community-based long term care services which support individuals’ independence and full participation in the community.” He presented findings of the study to lawmakers during the October meeting of the PEIA, Seniors and Long-Term Care Select Committee. (Among stakeholders who contributed to the report were WV consumers, family members, guardians, advocates, providers and state staff. Five public forums also were held throughout the state in April of 2007 as well.)

In his overview of West Virginia’s long term care environment as a system as a whole, he said that the state should develop a wide array of flexible services; the distribution of beds in nursing facilities should be reviewed; and, while there are 66 privately-operated Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR) in the state they are more “suited for a few older individuals with developmental disabilities who have significant medical needs, waiver services are more desirable and less expensive for other individuals with developmental disabilities”

In addition, “some individuals are admitted to state acute psychiatric hospitals because of their inability to access community-based services which result in crisis situations”, according to the study results.

When explaining the waiver process, the consultant said that many nursing homes are assisted with federal funding. The state has the option to apply for waivers to use the federal dollars in supporting more community-based services.

Assisted living residences should be made more available although it is not available through the waiver program and “Adult Day Care” programs are very limited in the state.

Promoting home and community based services, the expert noted “the Personal Care Program for Medicaid-eligible individuals provides hands-on, in-home services to over 4,000 state residents.” He also supports the West Virginia Transition Initiative, a pilot program serving 22 of the 55 state counties, which assists residents with disabilities and seniors

who reside in nursing facilities to live and be supported in their communities.

Other relevant findings in the study provided to the committee indicate the “Nurse Practices Act” (nurses overseeing non-nurses who do home visits) has a significant on the methods and costs of the delivery of home and community based services. He told lawmakers that changes to the Act would facilitate greater autonomy.

Access to information regarding services should also be improved and the Aging and Disability Resource Centers (ADRCs) have the potential to provide this service.

Other groups that the expert believes to be under served are those with ventilated care and people who are just above the eligibility line for Medicaid.

The quality of a state’s long-term care system can be largely attributed to the workforce, housing and transportation, the study noted.

Recommendations included in the presentation called for an expansion of the AD Waiver, replace ICFs/MR with waiver services and apply for Traumatic Brain Injury and MR/DD Supports waivers, expand options for self-direction and individualized budgeting in statewide LTC programs and services, expand the Transition Navigator Program and develop a Single Point of Entry system through the ADRCs.

Further recommendations call for a modification of the Nurse Practices Act in providing exemptions from liability, an expansion of Adult Day Care Programs, a continuation of applications for Federal Grants to increase funding for LTC services and supports, provisions for affordable and accessible housing and transportation and a call to address the workforce shortage, salaries and recruitment and retention, training and credentialing community based providers.

Financial projections for the changes have been based on low and high models. The low model results indicated a \$57 million savings over a 10-year period and the high model projected an overall savings of \$150 million over 10 years, only if the money is re-invested for better services for citizens.

Lawmakers noted a second look should be given to the federal PACE program, traumatic brain injury waivers and working with senior centers to keep citizens active.

In other matters, the committee heard from a research analyst from the Legislative Performance Evaluation and Research Division (PERD) regarding changes in Medicare



## Interim Highlights

policy relating to “never events” - serious, preventable medical errors and hospital-acquired conditions.

Medicare has enacted policies that prevent reimbursement to hospitals in the case of “never events.” Medicare states that the changes aim to increase the quality of healthcare and potentially save millions in federal funds.

The PERD report recommended to lawmakers that PEIA should implement similar policies adopted by Medicare that will discontinue reimbursement to healthcare facilities of hospital-acquired conditions.

Closing the interim meeting was a representative from the PEIA who updated lawmakers on the future of the Advantra Freedom coverage. Since the three-year contract with Coventry Advantra is coming to an end, the finance board will be seeking input from its participants regarding its service. As well as sending out materials to participants, PEIA will also be conducting six public hearings around the state prior to its decision to renew or not renew the services of the insurance provider. Thus far, the program at the end of its third year contract has been projected to see a \$10 to \$20 million in savings.

### Pensions & Retirement, Joint Standing Committee on

Appearing before the pension committee was the Executive Director of the WV Consolidated Public Retirement Board (WVCPRB) to respond to inquiries concerning the Armed Forces Retirement Service Credit. Her report covered where WV stands in relation to other state governmental pension plans in awarding free military service credit and what the projected cost would be if all WV plans administered by WVCPRB went to a free military service credit of up to two years for any and all military service.

According to material provided by the retirement executive director, after reviewing all 50 states and the District of Columbia, “West Virginia offers the greatest benefit in terms of free military service.”

The material indicated that 18 states offer no free military service credit but allow purchase of that time to add to the pensions.

Twenty-eight states limit free military service credit to veterans who were first employees of a participating public employer and then left public employment to do the military service and return to public employment (called “intervening military service”).

A few states grant some free military service credit with limitations in years and months.

Delaware offers free military service credit up to five years if the person was hired before July 1, 1978 and the date of military discharge was no earlier than July 1, 1971.

Maryland grants free military service credit up to five years if the person was employed by the state for at least 10 years.

The state of Washington grants free military service credit up to five years with some limitations.

“West Virginia offers up to five years free military service credit in its eligible period of armed conflict, four or two years in its Judges plan and draft military service in its Teachers defined benefit plan,” the report summarized.

The retirement board’s actuary told lawmakers that the cost for 2 years of free military service for all new hires would amount to \$2.9 million in terms of 2008 payroll dollars. Ultimately, if two years of service were provided, \$4 million would be the annual cost.

### Regional Jail & Correctional Facility Authority, Legislative Oversight Committee on

Agency representatives updated two topics pertaining to the state’s correctional facilities and took questions from lawmakers. Under discussion was an October interim report showing the historic growth in offenders sentenced to the custody of the Division of Corrections.

The division is currently operating at capacity with 1,100 prisoners being held in regional jails waiting for bed space to become available. If current trends continue and no additional prison beds are added, jail backlog will grow to approximately 2,200 inmates by the end of 2012.

Lawmakers were interested in the newly proposed two-by-two-by-three schedule for corrections officers. This schedule, which puts officers in a rotational 12-hour day or night schedule with every other weekend off, has been successfully adopted on an experimental basis in a facility in Martinsburg. The schedule would give officers a greater ability to manage a schedule planned well in advance.

The representative from corrections believes that with the greater flexibility, this schedule would help with recruitment and retention of officers if adopted statewide. The proposed schedule is under review until its implementation in January.



Lawmakers requested a survey by December with some feedback from Martinsburg officers that have used this schedule. They are concerned with the effect the schedule might have on single mothers who depend on babysitters as well as officers looking to continue their education.

## State Water Resources, Joint Legislative Oversight Commission

Lawmakers discussed and heard presentations concerning SCR 78, Chesapeake Bay Study. West Virginia is one of six states currently involved in the initiative to protect the waters of the Chesapeake Bay. The state currently receives a \$250,000 for its involvement in the project.

The goal is to improve the water quality of the bay by preventing pollutants from entering it and cutting down on the water load that it carries. Environmental officials believe the same water quality standards that apply to the bay itself should apply to downstream areas and downstream states. Currently communities with more stringent water quality standards in the Chesapeake Bay region are paying more while less stringent communities are paying less.

Some lawmakers are concerned about West Virginia's involvement because they see no economic benefit for these expenditures to keep up the bay. Areas in the eastern panhandle, closer to the bay's waters, have been strangled by these costs while other areas of the state pay far less. Some lawmakers believe that cost should be spread out statewide to make it more equal and fair.

While they admit there may be no direct economic benefit for the state's inclusion, environmental officials say the ultimate benefit will be when other states' waters flow into our state and they are, by law, forced to keep those waters clean. While West Virginia is mainly a headwaters state, environmentalists contend there is mutual benefit to having clean bodies of water on a region-wide basis.

The lawmakers that are in favor of the state's inclusion believe something must be done to maintain these standards while not bankrupting local utility services. They believe they have to find ways to get these local municipalities grant money before expecting them to fulfill their obligations. Many lawmakers wondered where additional grant money would come from given the lean economic times and the fact that no money is expected to be allocated from the Farm Bill this year.

## Veterans' Issues - Select Committee B

### VA Nursing Home

"We are open", the VA nursing home administrator told the Veterans Issues committee during October's interim meeting.

The 120- bed, \$26 million state-of-the-art facility, located in Bridgeport, is currently housing 20-30 veterans and hopes to have the first ward filled by the end of the year. "We hope to be completely full by July of next year," the administrator said.

There have been at least 200 veterans who have expressed interest in staying at the VA nursing home but the administrator told the committee that the facility couldn't grow beyond staffing. The current ratio of staff to patient is 1:3 while the national average is 1:8.

One of the difficulties that faced the facility early on was the hiring of nurse administrators. Many registered nurses were interested in working at the facility but the salary was much lower than what they would at other locations, the administrator said. That changed in recent weeks when the Governor signed off on an increase in the nurse administrators' salary from \$34,600 to at least \$40,000.

The average cost for a veteran to stay at the VA nursing home is \$1,200 a month compared to \$5,000 at other nursing homes in West Virginia.

Current requirements for admittance to the nursing home:

- Must be a citizen of West Virginia or had been a citizen when enlisted in the military
- Must have at least 12 months of service unless wounded in battle
- Non-smoking

The facility must have the right to look at anyone's medical records to see if staff would be able to handle their medical needs, according to the administrator.

"We will get to the point where we can accept everybody in time, but we're just not there yet," he said.

A physician from Morgantown addressed the committee on a grant proposal pending through the National Institute for Occupational Safety and Health for a pilot project to provide service dogs for veterans servicing from post-traumatic stress disorder (PTSD).

Animal- assisted therapy has been shown to have positive effects in medical disorders, emotional well-being and be-



havioral problems, and the use of service dogs will hopefully increase the rate of recovery from PTSD and also reduce health care costs, the physician said.

The physician, who has collaborated with various WVU departments and the National Institute for Occupational Safety and Health, is partnering with Veteran’s Administration for a grant to begin a 63-day program for PTSD veterans.

Further information on service dog training and services in West Virginia can be obtained at <http://humananimalbond.org>.

**Interim Committee Meetings**

November 16 - 18

December 7 - 9

January 11 - 13, 2009

February 8 - 10, 2009

*All dates are subject to change.*

**Index**

<b>Agriculture and Agri-business Committee</b>	<i>pg. 1</i>
<b>Education Subcommittee A - Public Education</b>	<i>pg. 3-4</i>
<b>Education Subcommittee B - Higher Education</b>	<i>pg. 4</i>
<b>Education Subcommittee C - Public School Finance</b>	<i>pg. 5</i>
<b>Equal Pay Commission</b>	<i>pg. 6</i>
<b>Finance Subcommittee A</b>	<i>pg. 7</i>
<b>Finance Subcommittee C</b>	<i>pg. 7</i>
<b>Forest Management Review Commission</b>	<i>pg. 7-8</i>
<b>Government Organization - Subcommittee A</b>	<i>pg. 8-9</i>
<b>Government Organization - Subcommittee D</b>	<i>pg. 9</i>
<b>Higher Education Capital Projects &amp; Facilities</b>	<i>pg. 6</i>
<b>Higher Education Deferred Maintenance Subcommittee</b>	<i>pg. 6</i>
<b>Joint Commission on Economic Development</b>	<i>pg. 2-3</i>
<b>Joint Legislative Oversight Commission on State Water Resources</b>	<i>pg. 14</i>
<b>Joint Standing Committee on Government Organization</b>	<i>pg. 8</i>
<b>Joint Standing Committee on Pensions &amp; Retirement</b>	<i>pg. 13</i>
<b>Judiciary Subcommittee A</b>	<i>pg. 10</i>
<b>Judiciary Subcommittee C</b>	<i>pg. 10-11</i>
<b>LOCEA</b>	<i>pg. 5-6</i>
<b>LOCHHRA</b>	<i>pg. 10</i>
<b>LOCRJ&amp;CFA</b>	<i>pg. 13-14</i>
<b>Parks, Recreation &amp; Natural Resources Subcommittee</b>	<i>pg. 11</i>
<b>Select Committee A - Children, Juveniles &amp; Other Issues</b>	<i>pg. 2</i>
<b>Select Committee B - Veterans’ Issues</b>	<i>pg. 14-15</i>
<b>Select Committee C - Infrastructure</b>	<i>pg. 8</i>
<b>Select Committee D - Health</b>	<i>pg. 9-10</i>
<b>Select Committee E - Broadband</b>	<i>pg. 1-2</i>
<b>Select Committee on PEIA, Seniors &amp; Long-term Care</b>	<i>pg. 12-13</i>

**Interim Committee Information**

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

**The West Virginia Legislature’s  
Office of Reference & Information**

Building 1, Room MB 27  
State Capitol Complex  
Charleston, WV 25305  
(304) 347-4836

Charlene Glagola  
**Director**

Drew Ross  
**Deputy Director**

Dee Spelock  
**Resource Manager**

Jaelyn Jett  
Chris Marshall  
**Public Information Officers**

Dave Martin  
**Web Administrator**

Randy Cain  
**Webmaster**

John Tice  
**Graphic Designer**

Martin Valent  
**Photographer**