

Interim Highlights

Agriculture and Agri-business Committee

Agriculture Update

The Deputy Commissioner of the West Virginia Department of Agriculture updated the committee on the top 10 commodities from last year during this month's meeting.

Poultry and eggs was the number one commodity of 2008 with a cash receipt of \$270 million followed by cattle and calves with a cash receipt of \$113.5 million. However, it was noted the poultry and egg industry does not turn over a profit as quickly as the cattle business.

However, the deputy commissioner told the committee that the traditional industries face pressure from two primary factors:

- Input costs that are currently outpacing any income gains.
- Federal environmental regulatory programs that will likely force many producers out of business.

West Virginia farm production expenditures have changed drastically from 2002-2007, the highest of those being in fuel and oil. The average net income has decreased by 31 percent since 2007.

There has also been a considerable increase in home consumption with more small farms being created in West Virginia, the deputy commissioner told the committee. He also said that he would not be surprised if 2009 figures are larger than those in 2008.

The deputy commissioner told the committee that environmental regulations such as the Chesapeake Bay rules would increase economic pressure on farmers. He also told the committee that the farming industries in West Virginia are critical to the economic health of our rural communities.

The deputy commissioner also told the committee that the Department of Agriculture is working with the state Depart-

ment of Environmental Protection on new rules for concentrated animal feeding operations that protect the environment and recognize the realities of West Virginia agriculture.

Another worry of the Department of Agriculture is the average age of the West Virginia farmer continues to rise - in 2007 the average age was 58.1. The deputy commissioner told the committee that more focus needs to be on the state's two programs in schools; 4-H and the Future Farmers of America. These programs provide job skills and leadership growth for future generations of West Virginia farmers.

Children, Juveniles & Other Issues, Select Comm.

Office of Child Advocacy

With West Virginia recently ranking fifth nationwide for substantiated cases of child abuse or neglect, some lawmakers plan to pursue a new watchdog agency.

The committee endorsed draft legislation that would create an independent Office of Child Advocacy.

The office would monitor the state's handling of abuse, neglect and related cases, with the authority to intervene when necessary. It is modeled on a Rhode Island program backed by the American Bar Association. Several states have adopted the model, including Georgia. West Virginia lawmakers may draw from that example as well.

The bill would debut during the 2010 session in January. Lawmakers also are weighing ways to strengthen the state's existing child protection agency.

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.

Economic Development , Joint Commission on

Green Building Standards & the Green Energy Workforce

The Commission continued to fulfill the tasks set out in SCR 54, which requires a study promoting green building standards, a green energy workforce and demand-side management in the public and private sectors. The Vice President of Government Affairs and Business Development of Kentucky provided insight into Kentucky's House Bill 2, signed by its governor on April 24th, 2008.

The comprehensive, but uncomplicated measure, gave the Commonwealth tools to address the energy crisis, the government affairs spokesman told committee members. The Kentucky Bluegrass Turns Green (KYBGTG) program is designed to recapture some of the power capacity already being generated and makes it available for economic development opportunities. The program will sell \$87 million in bonds, create two funds and capitalize the interest.

Fifty million will go to a grant program to be utilized in demand side management for facilities owned by Kentucky, according to material distributed at the meeting. During the first four years of the program, a project must be able to demonstrate a payback of five years or less. This will produce a minimum annual savings to Kentucky taxpayers of \$10 million. In FY 2006, Kentucky paid \$332 million to power bills for all of its facilities.

Thirty million will be used to create a low interest revolving loan fund to provide incentive to the private sector to install demand side management programs. They also have a five-year payback for the first four years of the program and 12-year paybacks in the second phase. According to the material provided to lawmakers, the second phase will allow for larger projects that have long paybacks, but have real value to achieving recapture of the energy capacity.

The material continued to note, "In this era of capital constraints and companies making difficult decisions on where to spend precious resources, lighting that works and windows that keep you from the elements are often not a high priority. However, in many of these situations there exists far more efficient means of lighting, heating, cooling,

weatherizing, etc. A low interest loan program allows some of these projects to go forward and with each project more capacity will be recaptured for other use."

In other words, savings from electricity bills, water bills and other utilities placed in state offices by contractors would ultimately save taxpayers substantial monies on an annual basis. Also, by taking megawatts off of the grid, energy is ultimately saved for other purposes.

The public/private partnerships designed to upgrade state buildings and save energy and associated costs are approved by an engineer with oversight from Kentucky's Finance and Administration Cabinet. The overall intent of the legislation was to use energy efficiently.

In other matters before the Economic Development Committee was a discussion with the commissioner of the Division of Tourism regarding the impact of tourism on the state as well as the impact of the division's advertising budget.

Figures provided by the commissioner indicated \$4.38 billion came from direct travel spending in 2008. In addition, 44,000 jobs were generated from travelers, with \$544 million added to state taxes and travel generated earnings coming in at \$912 million. Overall, travel spending in West Virginia has increased by 7.3 percent from 2007 to 2008.

An executive summary on overnight visitors indicated that 20% originated in West Virginia, 13% came from Ohio, 9% from Pennsylvania, 8% from North Carolina, 7% from Virginia and 7% from Maryland. The main purpose of the trip consisted of 45% visiting friends and relatives.

Other statistics covered activities and experiences. Findings ranged from 29% for shopping trips to 10% for hiking and backpacking and 3% for skiing and snowboarding. Business travel accounted for 8%, 3% for conferences and conventions and touring came in at 10% of the pie chart provided by the division.

Lawmakers queried the commissioner regarding the division's advertising budget. With the budget from lottery proceeds decreased, committee members were seeking an overall plan for marketing in the future. The committee said



since the economy has been affected, a proposal should be in preparation for the long-term sale of West Virginia’s assets so that appropriate funding is made available or reduced.

Education Accountability, Legis. Oversight Comm. on

Revised Teacher Standards

Committee members received an update on revised teacher standards and efforts to align teacher preparation, professional development, and evaluations with new standards from a representative with the WV Department of Education.

The West Virginia Board of Education with the State Superintendent directed the work to revise teacher standards to assure alignment with the state’s teaching and learning initiative. The process involved a review of the literature on effective teaching by a broad cross-section of education stakeholders. The new teaching standards will impact policy and practice in the areas of teacher preparation and licensure, teacher evaluation, professional development, and compensation.

According to the Department of Education representative, new teaching standards are organized in standard, function and indicator formats.

Program revisions are expected to be implemented during the summer of 2011.

A teacher evaluation task force was also assembled in order to revise WVBE Policy 5310 performance evaluation policy and process. Recommendations from this task force include:

- Consideration of a peer review evaluation model that is linked to a career ladder
- Give peers an equal voice with the administrator in the evaluation process.
- Provide peers with extensive training
- Assure strong teacher buy-in for the peer review model
- Use the executive committee to identify the key components of an evaluation system based on a review of the research.
- Use the executive committee to review recommendations of the Teacher Evaluation Task Force.

According to the representative, implementation of the new revised performance evaluation could be in 2011 or 2012.

The representative also informed the committee of a system to compensate great teachers/leaders that contains salary upgrades, a career ladder and other school-based initiatives.

Joint Meeting - Ed. Sub. A - Public Education / Jud. Sub. C

Truancy Programs

The Committee on Public School Finance had a joint meeting with Judiciary Subcommittee C regarding truancy problems in West Virginia. The 28th Circuit Court Judge addressed the committee about the streamlining of Nicholas County Schools’ truancy proceedings.

The judge told the committee in the past he wouldn’t receive truancy cases until the end of the school year and by that time a student may have missed 50 or 60 school days. However, last April and May, the school system conducted a “roundup” of students with 10 or more unexcused absences and their cases went straight to the judge. He, in turn, held hearings throughout the summer and put students under strict supervision as a result. Now, any student who has 10 or more unexcused absences goes before the judge.

An example was given to show the program’s usefulness - one student missed 60 days of school last year, but so far has missed none this year. The program is not yet 100 percent effective, but it is proving beneficial.

One committee member inquired about any associated costs to operate this truancy program, the judge replied there is no cost.

Interim Committee Information
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The judge told the committee truancy problems must be stopped now or these students will one day be faced with worse legal matters, like jail. Around 67 percent of the people in West Virginia penitentiaries are high school dropouts. Instituting tougher truancy prevention programs could cut the state dropout rates and lower the number of individuals serving time in prison.

Also speaking to the committee was a representative with the West Virginia Department of Education who discussed truancy diversion programs.

The Truancy Diversion Program was developed in 1983 and launched in West Virginia in 1999. Truancy Diversion is delivered by the Children’s Home Society, in collaboration with Alliance for Children, and places a social worker into a school to assist with truancy problems and other social and family issues. However, due to the lack of funding, this program was reduced and now is only located in Wood County, which is set to lose funding at the end of next year.

In order to combat the loss of funding, the Alliance for Children submitted a federal grant application with the Department of Education on August 15th of this year. The submitted application targeted 11 high schools in nine counties.

The Department of Transportation representative also provided other options that could reduce truancy in West Virginia’s schools, such as:

- Develop community-based programs
- Collaborate between the court system and public schools
- Provide opportunities for credit recovery
- Educate public and encourage community involvement through civic and churches
- Develop outreach programs for at-risk youth
- Use character education in building motivation
- Develop consistent procedures and county policies
- Assign mentors to students at risk
- Minimize out-of-school suspension for truancy issues
- Offer extracurricular activities and encourage those especially at risk to participate
- Reach out to parents early in the process

Veteran Higher Education

The President of Concord University and Chair of the Veterans Initiative Task Force of the Higher Education Policy Commission (HEPC) reported on the advances of the task force focusing on assisting veterans in obtaining higher education and technical college degrees.

The goal of the task force, according to material provided to the committee, is to ensure that each West Virginia institution of higher education is “Veteran-Friendly” and each campus is actively and effectively welcoming and supportive of veterans seeking to further their educations.

Recommendations provided by HEPC include:

- Better recruiting and marketing - include “welcome packages”; to link veterans with Alumni and employers; to establish connections with community and technical colleges; to share findings with public and private institutions; to develop more programs to align K-12 with veterans; and to develop more programs to align veterans with local communities.
- Better services support - to include trained counselors to respond to unique veteran needs; to establish organizations for veterans on campus; to identify specific faculty as major contacts; to establish chat rooms; and to establish veterans’ lounges on campus.
- Academic program offerings and support - to provide focused training for faculty and staff; to develop state-wide policies on credit evaluation policies for veteran experiences; to integrate RBA Today degree program with the advisement for veterans; and, to develop project “VAST Horizons” as a pilot program. Vast Horizons is an initiative that utilizes existing veteran expertise as members of an academic support team for tutoring of all students but especially veterans.
- Responsiveness to special needs - to coordinate services with existing disability services on campus; and, to bill veterans after Oct. 1, to insure they have

received their benefits.

- Record-keeping/reporting - to develop a tracking model for recruitment, retention and graduation rates; and, to assess the consistency of institutional call-up policies for veterans.
- Research - to provide funding to survey the needs of veterans, including females, disabled and dependents; to assess the disparate impact of the GI Bill on pre 9-11 veterans; and, to provide on-going funding with veterans groups on campus.
- On-going leadership - to convene regular statewide meetings with groups working with veterans; to develop training teams; to closely link veterans' needs with federal and state initiatives; and, to work with state veterans' organizations and HEPC.

Finance, Joint Standing Committee on

State Road Fund

Vehicle gasoline efficiency, limited and/or shorter trips and higher construction costs are all factors affecting the state's State Road Fund, according to a study done by West Virginia's College of Business and Economics. Revenue from taxes on fuel, sales and vehicle registrations have declined significantly. The state has so far received \$14.6 million less than the \$631.6 million it expected ending in June 30, 2009.

In a presentation entitled "Financing West Virginia's Highways: Challenges and Opportunities, the Director of the Bureau of Business and Economic Research noted that West Virginia is one of four states with centralized financing, planning, construction and maintenance of highways. The decision for state taxpayers financing their highway system, along with federal dollars, was made by the adoption of a State Constitutional amendment during the depression.

Types of state highway taxes and fees include registration and privilege taxes, motor fuel excise taxes and weight-distances and axle-weight distance taxes and fees. A comparative analysis of other states show revenues used to finance highways include general fund revenues at state

levels, local revenues including sales, income and special fees and miscellaneous revenue streams including tolls.

Statistics provided by the economist indicated that passenger vehicles fuel efficiency rose from 13.8 mpg in 1976 to 22.5 mpg in 2007.

The U.S. Corporate Average Fuel Economy (CAFE) regulations, first enacted by Congress in 1975, are federal regulations intended to improve the average fuel economy of cars and light trucks (trucks, vans and sport utility vehicles) sold in the U.S. in the wake of the 1973 Arab Oil Embargo. The CAFE standards call for increases to 39 mpg by 2016.

Vehicle miles traveled increased until 2005 and has since dropped off, the expert told lawmakers.

Federal highway financing is facing an uncertain future. Stimulus money was a one-time thing and the "cash for clunkers" program reduced gasoline mileage and thus dollars from gasoline taxes.

The WVU spokesperson told lawmakers that major tax revenues in nominal terms have generally increased over time - until recently. Adjustments for inflation have resulted in a significant decline in real revenues since FY 2004. In FY 1970, registration fees were more important but recent declines in vehicle purchases and indexing vehicles base on value have resulted in sales and property tax reductions. People are keeping their cars longer.

Suggestions for options to shore up the State Road Fund made by the WVU economist include:

- Increase the motor fuel excise tax rate
- Wholesale rate could be increased to six percent to provide parity and equity with other consumer sales tax
- Increase sales tax rate to six percent, comparable to the consumers sales and use tax
- Enact surcharge sales tax of 0.5 to 1.0 percent on vehicles with fuel efficiency above a predetermined level
- Increase registration fees, which have not been changed for 20 or more years
- Expand local options besides the wage tax



Finance Subcommittee A

Drop-out Prevention Programs

A representative from the Kanawha County Board of Education discussed their Drop-out Prevention program.

With some funding help from the state, Kanawha County school officials are hoping to curb dropout rates by expanding the county’s two vocational schools.

Kanawha Co. is applying for \$2 million in state funding to build four new classrooms each at Kanawha County’s Carver and Ben Franklin career and technical centers. The eight classrooms, and the instructors to go with them, will help the Kanawha school system expand its Career Plus program, which attempts to keep at-risk students from dropping out of school by enrolling them in technical programs.

According to data presented to the committee, 576 West Virginia students dropped out of school in 2007, and 555 dropped out in 2008. Lawmakers and representatives say expanding Career Plus will help cut those rates because some students just don’t thrive in traditional learning environments. The phrase “one size doesn’t fit all” was a common theme throughout the meeting.

One lawmaker reiterated that dropouts are not necessarily students that don’t do well, and that technical schools have an entirely different approach to education that is needed to prepare students for today’s job market.

Usually, students have to be enrolled in 11th or 12th grades before they can enter a technical school program. Career Plus, first started in 2003, allows at-risk students, ones who are seen by school administrators as potential dropouts, to enter a technical school after they’ve attempted ninth grade at their home school.

Students are considered “at-risk” if they’re 17 years old or older, and in the ninth or 10th grade. A 16-year-old might be considered if space were available in the program.

Students are considered at-risk if they make “unsatisfac-

tory academic progress”, lagging behind their grade level by a year or two, if they’re frequently absent, express a disinterest or dislike for school or have a “low self concept.”

Though students remain on their home high schools’ roll and are allowed to participate in extracurricular activities like sports teams, proms and graduations, they spend their entire school day at the technical center.

Career Plus students spend half of their time on core curriculum classes - English, math, social studies, science - and the other half in technical programs offered by the school. Carver and Ben Franklin also offer credit recovery opportunities, to help struggling students graduate on time.

Staff recommends that students stay in the Career Plus until their junior year. At that point, they can decide to return to their home school or continue their education at the vocational school. These technical schools also don’t seem to lose many students. The small class sizes and access to technology is ideal for those students who struggle in larger settings.

Participation in Career Plus hasn’t change much since the program was instituted in 2004. That year, Carver had 28 students and Ben Franklin had 35. In the 2008-2009 school year, 36 students were enrolled in Career Plus at both Carver and Ben Franklin. With the expanded program, officials say between 60 and 80 at-risk ninth graders will come to Ben Franklin and Carver.

One concern for administrators is the growing enrollment handled by a small staff. They believe one of the keys to success in this program is the low student-teacher ratio. If a 20 to 1 student-teacher ratio develops, administrators fear students may encounter the same problems they did at their regular high schools.

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Forest Management Review Commission

Forest Industry

During the December interim meetings, the Commission and its members heard from state officials who told the committee that West Virginia's timber industry lost roughly 3,000 jobs this year and recovery seems remote. They were also told that the forest industry hasn't been in such bad shape since the Great Depression.

A rise in new home construction over the past five months holds out the prospect of recovery but it may still be a long time before the state's hardwoods industry rebounds. Commission members were also told that the state Division of Forestry is preparing a report mapping out a new strategy for West Virginia's timber industry which, lawmakers were told, should be finished by spring.

Government Organization - Subcommittee A

Professional Regulatory Boards

Counsel for this subcommittee presented draft versions of two pieces of legislation relating to professional regulatory boards for the committee to review in anticipation of introducing them when the full Legislature convenes in January for the 2010 Regular Session.

The first bill would clarify provisions regarding the regulation of professional occupational licensing boards. Among the proposed changes, a board would be able to issue notices to cease and desist violating the practice act only when those issues are ordered by a circuit court. The bill would clarify procedures governing hearings and would require all board members adhere to the ethical standards for appointed officials set forth in state Code. The proposed bill allows a board to set fees sufficient to operate and adds an alternative method for notifying licensees of proposed fees in legislative rules. The bill would provide technical cleanup to current Code.

The second measure discussed, a companion measure, would authorize the Ethics Commission to set a legisla-

tive rule establishing guidelines for members of professional licensing boards regarding concurrent service as an officer of a state professional association. It would set forth legislative findings that state the purpose of the proposed rule would be to ensure that such concurrent service does not impair the board member's impartiality and independent judgment.

Government Organization - Subcommittee B

West Virginia Public Employees Grievance Board

The committee continued their discussion of the West Virginia Public Employees Grievance Board. After two years of study, the Legislature revamped an employee grievance process that was slow, cumbersome and inefficient.

A key change in the law requires mediation in step two of the grievance process before full-scale hearings on the complaint. According to the chairman of the board, this has proved highly effective to have the employee and employer "talk over issues" with an independent third party.

About 40 percent of all grievances are resolved at that level, compared to about 5 percent under the old system. While he doesn't yet have the figures, the chairman said he is convinced mediation is saving the state considerable amounts of money by avoiding costly level three hearings in front of administrative law judges.

The transition was not without growing pains, in part because the legislation inadvertently dissolved the old grievance board in mid-April but didn't create the new board until that July.

That meant the new board inherited a backlog of more than 400 cases - a substantial backlog that has now been cleared.

The board, made up of six judges, four full-time staffers and two temporary employees, handles about 1,500 employee grievances a year.

Government Organization - Subcommittee C

Speech Language Pathology and Audiology

Members of this subcommittee heard from representatives of the West Virginia Board of Examiners for Speech Language Pathology and Audiology regarding changes to the state Code that governs their profession. Representatives stated that changes have occurred in the practice of this field that must be incorporated into the Code governing this profession.

They also provided some statistics to the committee regarding their field. Currently, there are 661 active Speech Language Pathologists licensed by the state Board of Examiners with 421 of those working in schools. However, only 38 percent of those are licensed and 45 percent have never been licensed.

The committee agreed to continue to study the issue and approved a resolution to examine current Code and stated that they, along with the Board, are committed to protecting the public through the licensure and regulation of this profession.

Health, Select Committee on

Perinatal Health Education

House Concurrent Resolution 53 from the 2009 Session requested a study to identify good perinatal (good health practices during pregnancy) health education models to be developed for West Virginia.

The resolution was brought about by statistics that show WV women under the age of 20 have higher rates of premature births, low birth rates and infant mortality than that of older women. From 2002-2004, infant mortality rates were highest for women under 20 (13.6 infant deaths per 1,000 live births) compared to all WV births (8 infant deaths per every 1,000 births).

These statistics are believed to be the result of lack of knowledge and misinformation regarding how to have a healthy

pregnancy. Legislative intent, according to the resolution, to reduce poor birth outcomes for teenagers by conducting a study which will assist in identifying one or more county systems that could serve as models for the state. This finding was brought forward by the US Centers for Disease Control and Prevention, which believes that health education effectiveness can reduce the birth statistics.

The resolution calls for cooperation among the Department of Health and Human Resources (DHHR), the Department of Education (DOE) and other interested parties. Appearing before the committee was a spokesperson of the Perinatal Project who provided recommendations based on findings compiled by the West Virginia Perinatal Partnership 2009.

Based on a two-part study conducted by educational experts of Edvantia contracted by WV Community Voices, Inc. and provided to the committee, the recommendations include:

- Changing Code regarding in-service training programs for teachers to ensure that all WV teachers keep up with credentialed health education and family and consumer science education by receiving professional development based on the most recent scientific specific research to planning for a healthy pregnancy and baby
- Increasing the availability and accessibility of school-based health center services and community health center services for school-aged children throughout the state
- Conducting further research to determine the access to adequate perinatal health, life skills and wellness education within the schools of counties identified as have the poorest maternal and newborn outcomes
- Developing a consistent statewide education approach to reduce poor mother and baby outcomes by amending Code calling for educational programs in the importance of preparing and planning for a healthy pregnancy...teaching positive health habits...among other learning programs.

Interim Meeting Schedule & Agendas

Please visit West Virginia Legislature's Web site:

<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>

LOCHHRA

Insurance Costs

Members of this committee heard from a representative of West Virginians for Affordable Health, the state medical association and other contributors about a study regarding insurance costs in West Virginia. According to the study, health insurance costs in West Virginia will nearly double in the next decade but there is time for the state to act to combat these rising costs.

Maryland-based CCRC Actuaries was hired by the stakeholders to conduct an extensive, first-of-its-kind study based on three years worth of claims data from private and government insurers that cover nearly half the state's population. The study found health care costs would rise from \$13 billion this year to \$24 billion in 2019. The federal government will pay about 30 percent of those costs, policyholders will pay 26 percent and insurers 27 percent. The state and charity care together nearly split the remaining 15 percent.

CCRC also found three options that, together, could save the state more than \$3 billion a year by 2019. Two of the cost-savings options include getting doctors and pharmacies to abandon paper and turn to electronic medical records and prescriptions. E-prescribing can prevent medical errors and side effects and save money by allowing doctors to match up the drugs they prescribe with what their patients' insurance will pay. Electronic medical records, which replace manual medical charts with software, have similar effects and can reduce redundant testing.

According to the study, technology initiatives could save the state more than \$1.4 billion a year by 2019.

The other cost-saving option included switching to patient-centered medical homes, which are designed so doctors and physician's assistants can provide improved disease management and other comprehensive medical care to patients. The cost savings in the homes come from prevention and gradual health care can reduce expensive emergency situations. The study estimates that even if the

state puts \$45 million into the program at the outset and \$368 million toward physician reimbursements, the state can still save nearly \$2 billion a year by 2019.

CCRC also studied expansions to Medicaid, the federal-state health care program for the poor, and the possibility of requiring individuals to buy and employers to provide insurance. It found that, overall, each of the two mandates would save patients money and lower costs but be prohibitively expensive for the state government, which would have to spend hundreds of millions to help subsidize insurance costs for low-income state residents. The cost savings within those scenarios come from, among other things, reducing the reliance on expensive emergency care.

The committee will continue to look at the study and related research with hopes of building toward a better health insurance policy and future cost savings for the state.

New DHHR Cabinet Secretary

During the committee's second meeting of the December Interims, members heard from the new Dept. of Health & Human Resources (DHHR) Cabinet Secretary on the progress of the DHHR since she began three months ago and the goals she has set.

The DHHR Cabinet Secretary told the committee that priority number one is building relationship and visibilities. In her first 90 days, the Cabinet Secretary has met with over 1,000 employees, visited two hospitals and talked with other representatives. She told the committee that she wanted to touch base with as many people as possible.

Another priority for the DHHR will be to make sure that there are coordinating efforts with other agencies within state technology.

Progress has also been made with filling a number of vacancies within the DHHR including seven staff additions in the medical services department and 85 hired in the behavioral health department. The Cabinet Secretary also told the committee that a medical job fair was held and more than 75 have applied for jobs within DHHR. Those applications are currently being reviewed.



The Cabinet Secretary also informed the committee of various work groups that have been formed including a focus task team for medical services and behavioral health.

DHHR will also have a web-based tool up and running in February that will help the department pinpoint where those individuals needing services are so the services are reaching those most needing them.

The Cabinet Secretary told the committee that Since December 2nd, 376,000 H1N1 vaccines have been distributed and that by January there will be enough vaccines for everyone.

The Cabinet Secretary has also been busy preparing its budget for next year. She told the committee that there are many problems and no excuses for DHHR but she hopes the goals she has set will begin to send the DHHR back in the right direction.

Infrastructure, Select Committee on

Cell Phone Use/ Texting While Driving

Talking on a cell phone or using it to text message while driving could become misdemeanor crimes in West Virginia under a bill sent out by the committee during December interims. Under the provision in the proposed bill, using a hand-held wireless phone to talk while driving would be a secondary offense, texting while driving would be a primary offense.

Under the talk-only violation, a police officer would need to stop a driver for another indiscretion to write a citation, but now could pull a motorist over for texting under the amended version.

Many lawmakers who support this bill would prefer to have both offenses be primary but say this is a step in the right direction.

Opposing lawmakers criticized the value of the cell phone bill, disparaging it as a mere political message. They believe such activities should be considered reckless driving and police need more power to deal with such violations to enforce the law.

However supporters pointed out that West Virginia has an opportunity to capture some federal dollars under a bill Sen. Jay Rockefeller has sponsored to benefit states with a crackdown on cell phone usage.

Committee counsel said the penalties for message texting would be \$50 for the first offense, \$100 for a second, and \$200 for third and subsequent citations. Using a hand-held phone to talk would result in a \$25 fine for the first occurrence, \$50 for the second, and \$75 for third and all others. In neither instance would points be applied to a driver's license.

In another vote, the panel agreed to take special license plate creation out of the hands of the Legislature and leave those decisions entirely with the Division of Motor Vehicles.

The bill was then amended so that a group need only assure 250 license sales, half the threshold in the original bill, to gain approval of a special plate.

Judiciary Subcommittee A

Draft Legislation

Committee members heard from a representative with the County Clerks Association regarding draft legislation establishing the State Auditor perform delinquent land sales paper processing responsibilities. Currently, county clerks hold this responsibility.

According to the representative, the processing responsibilities of delinquent land sales are tedious and time consuming for county clerks, whereas the Auditor's office has sufficient staff and equipment for this responsibility.

The bill was first introduced in a summer special session in 2007 and has been introduced every session since then. During this year's regular session the bill, Senate Bill 442, passed in the Senate but died in the House.

A representative with the Auditor's office informed the committee that the Auditor's office is supportive of this legislation.



The representative told the committee that the bill the County Clerks Association is proposing is the same as last year. Committee members voted to move the bill to the 2010 regular session.

Judiciary Subcommittee B

Railroad Walkways

Committee members heard from various speakers regarding the regulation of railroads during this month's Judiciary Subcommittee B meeting.

First to speak was an attorney for Norfolk Southern Railroad who told the committee that West Virginia already has a rule in place dealing with railroad walkways and also stated that there is very little that could be done because the Federal Railroad Act restricts them from doing so. The attorney also told the committee if rules were modified or updated, the action could invite legal issues and would not improve workers' safety.

Next to speak to the committee was a safety foreman for Norfolk Southern Railroad who said that from January 2006 to September 2009 there has been one injury reported caused by a railroad walkway. He also told the committee that he has had only three workers complaining of knee or leg pain. Railroad workers have to wear a mandatory boot that must be worn to prevent foot and ankle injuries.

A representative with the United Transportation Union told the committee that current railroad walkway rules have not been updated in several years and they are asking for a review of the rules currently in place to see if changes do need to be made. He also told the committee that railroads only report injuries that are direct and one-time instances and are not repeat injuries from having to walk on the walkways. He said that most repetitive injuries are occurring in younger workers.

Representatives with the CSX Railroad told the committee the current track standards are solid and proper walkway ballast is currently being used. They also told the com-

mittee until the courts work it out, West Virginia is acting preemptively.

Last to address the committee was a representative with the Brotherhood of Locomotive Engineers and Trainmen who reiterated what the United Transportation Union representative said by wanting a review of the current rules currently in place because safety should be the primary concern.

Judiciary Subcommittee C

Court of Claims

Senate counsel presented proposed legislation on reforms to the Court of Claims. The proposed legislation originally stated that the clerk for the Court of Claims could decide monetary cases against the state in the amount of \$5,000 or less.

The bill was amended to read that the Court of Claims as a whole would have the authority to decide these cases, and would approve or reject the clerk's initial finding. The \$5,000 amount was then lowered to \$2,500 by another amendment. Lawmakers and court workers believe this action will expedite the process in which claims are settled.

The committee then heard an NCSL Webinar titled "Ignition Interlock Devices: Using Technology to Combat Drunk Driving"

According to the webinar, there are an estimated 80 million drunk driving occurrences per year but only 1.4 million arrests. License revocation and suspension are not good deterrents either because evidence has shown that between 36-88 percent of those offenders drive again regardless of their suspension or revocation.

The ignition interlock system is a device installed in a vehicle that makes it impossible to start the ignition if the driver's BAC is over the legal limit. A driver must blow into the device at intervals throughout a trip as well.

These devices have been around for over 20 years and have shown to reduce recidivism by 73 percent when used



by prior offenders. The committee briefly discussed the interlocking device and planned to have informal meetings over the next few weeks in hopes of recommending some type of DUI or interlocking legislation for the 2010 regular session.

Minority Issues, Select Committee on

Racial Profiling

Executive Director of the West Virginia ACLU addressed committee members on draft legislation relating to searches of motor vehicles by police officers.

The ACLU Director told the committee that the West Virginia Division of Criminal Justice Services completed a state traffic stop study released earlier this year. In that report, it showed that persons of color were 1.5 times more likely to be stopped and 2.5 times more likely to be searched by West Virginia law enforcement. The report also stated that persons of color had a lower contraband hit rate than white drivers.

With these results from the study, the ACLU Director suggested legislation that puts into place procedures to protect motorists with regard to searches of their vehicles by police officers. Under this proposed legislation, an office conducting traffic stops may not search a vehicle unless:

- Probable cause/legal basis
- Weapons search/reasonable fear for safety
- Written consent
- Oral consent/audio-visual recording

The director told the committee one consequence of racial profiling is prison overcrowding, which is a major problem currently facing West Virginia. The Director also told the committee West Virginia ranks last in the country for using alternatives to incarceration for non-violent offenses such as halfway houses, probation or home confinement.

The ACLU Director also told the committee there are noticeable sentencing disparities.

On average, a white person convicted of a violent crime serves 61 months in jail, while a black person serves a similar 58 months in jail for a non-violent drug offense.

Through all of the research that has been collected, the Director told the committee there are two key findings: first, crime is not deterred by harsher punishment; and second, West Virginia must reform its draconian criminal statutes.

The Field Organizer for the West Virginia ACLU also addressed the committee on proposed legislation relating to racial profiling.

The legislation would provide anti-racial profiling training for certain officer trainees.

Both bills brought forth to the committee were held over until next month's interim meeting.

Parks, Recreation & Natural Resources Subcommittee

Twin Falls State Park Expansion Update

The Superintendent of Twin Falls State Park updated the committee on the lodge expansion project at the park. This \$7.48 million expansion is expected to be completed in the spring and is expected to result in a great economic benefit for both the park and the surrounding area in Wyoming County.

The 20-room lodge is being expanded to 47 rooms. The lobby and front desk area are being modified, and the conference room is being expanded. An indoor pool, hot tub, and fitness area also are included for guest use.

The project includes an elevator, accessibility needs and expanded parking to more than 100 spaces. The existing lodge is 14,200 square feet, and the expansion project will increase the total square footage to 27,580. A new courtyard will replace the existing lodge yard and driveway loop. The lodge complex will be a smoke-free facility upon completion.



The new rooms are expected to cost between \$75 and \$150 per night. The new banquet setting will accommodate 150 people.

Business at the park is down roughly 5 percent this year, which could be a combination of the ongoing construction that began in September as well as the ailing economy. Park officials have been very diligent in telling guests what to expect during the construction period. The park is also expecting to have some sort of discounted rate for the opening of the new lodge.

Funding for the project is made up of a \$3 million West Virginia Economic Development Infrastructure Grant plus \$4.48 million in West Virginia Lottery funding.

PEIA, Seniors & Long Term Care, Select Committee on

Senior Hunting and Fishing Licences

According to data provided every five years by the U.S. Fish and Wildlife Service, 460,000 resident and 137,000 nonresident hunters and anglers spent over 10.8 million days collectively each year hunting and fishing in West Virginia. Money spent by these sportsmen and women impacts our economy by over \$1.2 billion annually and supports over 16,000 jobs.

During the December interim meeting, the issue of senior hunting and fishing licenses was discussed. Ages of hunters and anglers range from six to well-over 65. Statistics show that the individuals using the woods the most are from the over 44 population group. Those same numbers indicate that “baby boomers”, the state’s largest group, are nearing age 65. As such, the committee is looking at senior lifetime hunting and fishing license legislation.

To be purchased at age 65, this one-time buy would be valid for a sportsman or woman’s lifetime. The fee would be \$15 and would include trout fishing and most other licensing privileges. A person could buy the license, move out-of-state to warmer climates, return for a hunting or fishing trip, and the license would still be good.

States that offer senior hunting and fishing licenses benefit in two ways. The direct license revenue is not significant but the license will be particularly important as baby boomers begin to reach age 65 in 2010.

The license fees also will draw down federal money. All state fish and wildlife agencies receive federal funds from federal excise taxes paid by hunters and anglers when they purchase hunting and fishing equipment. Federal excise collections are pooled from all sources nationwide and then allocated to the states based on the number of license holders and the amount of land and water areas in each state. West Virginia can currently gain more than \$5 annually in additional federal dollars for each hunter.

Every state surrounding West Virginia has some form of senior licensing. States without the senior license lose money to those states because dollars are allocated to states with senior licensing

Another area addressed by the committee covered the calamities of Alzheimer’s Disease. According to a spokesperson for the West Virginia Chapter of the Alzheimer’s Association, 5.3 million Americans are afflicted with the disease with approximately 48,500 in West Virginia. By 2050, the United States will have an estimated 16 million people suffering from it.

Dementia caregivers, due to the stress of care giving, are 63 percent more likely to die sooner than individuals who are not caregivers, the spokeswoman told lawmakers. The association president appeared before the committee on PEIA, Seniors and Long Term Care to provide information on the services it provides to citizens throughout the state.

Of particular significance is its 24/7 toll-free helpline: 1-800-491-2717. The information and referral Helpline provides support, educational materials and community resources. Answers regarding the disease and memory loss, medications and treatment options, brain health, care options, caregiving and respite options.

The chapter also can be contacted through its website: www.alz.org/wv

Regional Jail & Correctional Facility Authority

Huttonsville Gas Line

The General Manager of Engineering Services for Mountaineer Gas Company addressed the committee about possibly extending a natural gas line to Huttonsville Correctional facility.

According to the General Manager, Mountaineer Gas would have to extend the existing line, which would be around 40,000 feet of service at a cost of \$2.1 million. However, in the long run, the switch from oil to natural gas will have a cost savings, the General Manager said. Huttonsville currently pays \$969,000 per year in fuel cost alone. If the facility were to switch, it would pay \$604,000 a year; a savings of \$365,000 a year. If the gas line extension were approved, Mountaineer Gas would own and operate the line.

Action Consulting Team

A spokesman for the newly formed Action Consulting Team addressed the committee on the need to change state laws to emphasize rehabilitation over imprisonment for drug offenders.

The spokesman, speaking on a personal level, told the committee addiction is a disease and can be treated. For his personal addiction, the spokesman told the committee instead of the judge sentencing him to prison, he was sentenced to six months of drug rehabilitation at a treatment facility. He also told the committee drug rehabilitation is not only effective but also cheaper than being run through the Division of Corrections.

The Action Consulting Team would like to see drug rehabilitation for nonviolent drug offenders instead of prison. Approximately 50-60 percent of offenders in West Virginia's prisons are nonviolent offenders.

Before the 2010 Regular Session, a report by the West Virginia Law Institute will be released. The report will review the state criminal code to determine when shorter prison terms and alternative sentencing options are appropriate.

Draft Legislation

Committee members also moved draft legislation that would change the process by which parole release plans of inmates in custody of the Division of Corrections (DOC) are reviewed. Under this proposed bill, a parole release plan would be reviewed and investigated by the DOC, which would then make recommendations to the Board of Parole. The bill, in some instances, also would allow the Board of Parole to deny parole without the benefit of the review and recommendation of the plan. The bill will be introduced during the 2010 regular session.

Water Resources, Joint Legislative Oversight Commission on

Marcellus Shale Impacts

Members of this Select Committee met to discuss Marcellus Shale. A representative of the West Virginia Chapter of the Sierra Club spoke about concerns regarding environmental impact of Marcellus Shale gas drilling.

Marcellus Shale, also referred to as the Marcellus Formation, is a Middle Devonian-age black, low density, carbonaceous (organic rich) shale that occurs in the subsurface beneath much of Ohio, West Virginia, Pennsylvania and New York. Marcellus Shale also underlies small areas of Maryland, Kentucky, Tennessee, and Virginia.

The most promising wells drilled into the Marcellus employ two technologies relatively new to Appalachian Basin gas shale production. One is horizontal drilling, in which a vertical well is deviated to horizontal so that it will penetrate a maximum number of vertical rock fractures and penetrate a maximum distance of gas-bearing rock.

The second is "hydrofracing" (or hydraulic fracturing). With this technique, a portion of the well is sealed off and water is pumped in to produce a pressure that is high enough to fracture the surrounding rock. The result is a highly fractured reservoir penetrated by a long length of well bore.

A representative from the Sierra Club told the committee of its concerns regarding the scale of these operations and the higher numbers of 18-wheel vehicles causing damage



to nearby roads which were not designed to carry such a load. She also stated the potential gas reserves in this formation (Marcellus Shale) have set off a surge of speculation throughout Pennsylvania and West Virginia, all for the opportunity to drill wells as deep as 8,000 feet.

She stated that the environmental degradation accompanying drilling in the Marcellus shale is exponentially greater than smaller gas drilling operations. The damage to water supplies and the requirements for disposal of toxic waste are well documented and the subject of ongoing investigations in many jurisdictions.

In addition, of course, there are extensive roads and pipelines, heavy ongoing 18-wheeler traffic, clearcuts, and more. This kind of gas field development may, or may not, have an appropriate place, but she made it clear in no uncertain terms our state parks are not that place. Environmental ruin is what our state park system faces if gas development is allowed there, she stated.

The Committee plans to continue discussing Marcellus Shale in the future.

LOCWIED

High School Plus

Continuing to raise skills in West Virginia’s workforce, the acting director of WORKFORCE West Virginia provided background into High School Plus, a statewide multi-partner campaign designed to raise awareness of the necessity for education beyond high school and to offer free services to students and adults outside of a traditional four-year college degree.

According to the spokesperson, the program targets middle school students, high school juniors and seniors, high school drop out, dislocated workers and interested adults.

The program partners with WORKFORCE West Virginia, K-12 school counselors, WV career and technical schools and colleges and the West Virginia Manufacturing Association.

Interested individuals may find further information about the program and its free services in training, apprenticeships and education available on-line at www.wvhighschoolplus.com

To keep people from missing out on educational training in three areas of the state where training funding has expired, the WORKFORCE acting director transferred \$500,000 from monies identified in the agency for other projects toward training in Parkersburg, Wheeling and Beckley where many people are on a “wait list.” The acting director told lawmakers he has submitted a grant for additional federal dollars but is resubmitting another providing further details. 

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