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Interim Highlights

Agriculture and Agri-business Committee

WVSU Extension Service

Committee members heard from the Dean and Director of the Gus Douglas Institution on West Virginia State University's (WVSU) support of local foods economy throughout the state.

WVSU was first founded as a Land-Grant Institution in 1891 and was established as an extension service and research station in March 2000. The WVSU is comprised of four program areas:

- 4-H youth development
- Agriculture and natural resources
- Community and economic development
- Family and consumer science

The WVSU has 31 professional staff members and have currently conducted programs in 20 counties. Their office locations are in Fayette, Kanawha, Nicholas, Raleigh, Webster and Wyoming. There will be another office location in Cabell beginning July 1.

Local food efforts by the WVSU include:

- Support for farmers in diversification of crops, organic certification, greenhouse and high tunnel research and also ethnic foods. WVSU is building 10 eco-friendly high tunnels for home growers to extend their growing season.
- Support for Agri-business and specialty foods through the Rural Business Service (RBS) Program, which is federally funded and places much emphasis on specialty foods production, agri-tourism, and heritage arts/crafts development. The RBS program annually supports West Virginia Recipe Challenge and is initiating the cultural heritage foods project.
- Support for community-based agriculture like farmers markets and community gardening. WVSU has facilitated development of farmers markets in Summers, Monroe, and

Fayette counties. They are also working with residents to develop a truck market for the West Washington Street in Charleston. There are currently 12 community gardens in Charleston, Dunbar, and Huntington including sites in low resource communities and elder care facilities.

Economic Development , Joint Commission on

Create West Virginia

Members of this joint committee heard a presentation from a representative of Create West Virginia about his organization and their goals.

Members were told that Create West Virginia is a grass roots organization launched by Vision Shared whose vision is to empower West Virginians at a local level to place themselves among the most innovative, dynamic, prosperous, creative communities in the world.

The stated mission is to build creative communities for the new economy. Strategies to achieve this include: empowering communities at a local level through training and ongoing support; supporting and initiating statewide policies for building creative community pillars; promoting West Virginia as a great place to create today; and, developing and launching commercial and social entrepreneurship projects, businesses and initiatives that improve WV.

Much of this initiative is related to the concept of the "creative class", and its ramifications in urban regeneration brought forth by Dr. Richard Florida. His theory asserts that the creative class fosters an open, dynamic, personal and professional environment.

Interim Meeting Schedule & Agendas

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



This environment, in turn, attracts more creative people, as well as businesses and capital. Further, it suggests that attracting and retaining high-quality talent, versus a singular focus on infrastructure projects such as sports stadiums, iconic buildings, and shopping centers, would be a better primary use of a city's regeneration resources for long-term prosperity.

Create West Virginia hopes to continue working with state and local leaders to develop initiatives and programs to foster this type of development in West Virginia.

Education Accountability, Legis. Oversight Comm. on

Superintendent's report

The State Superintendent of Schools submitted a report to the committee and made some brief remarks.

He talked about the Learn 21 program that the West Virginia Department of Education has launched as an online learning website that students can use during their time away from the classroom in the summer.

Learn21 provides engaging Web-based math resources for students in grades pre K-12. Language arts, social studies and science resources will be added to the Learn21 website prior to the start of the 2010-2011 school year.

Learn21 allows students to learn while they play. The Superintendent pointed out that Learn 21 is an ever-changing resource. As such, the department needs the help of educators, parents and students to provide feedback, which will lead the site's evolution.

Learn21 provides multiple opportunities for principal, teacher and student feedback. Comment boxes are provided throughout the website for thoughts and suggestions.

Education reform has been an ongoing effort in the state recently and much has been made of schools' lack of flexibility with regard to curriculum, technology and allocation of funds. School Innovation Zones were created to make things more

flexible and a host of other education initiatives are currently being considered by a House and Senate committee in preparation for a possible special session next month.

With regard to the flexibility issue, the Superintendent believes that the solution may already exist within current West Virginia code. He informed the committee that in 1991 the Legislature passed a law allowing school improvement councils to seek waivers for their districts or counties from sections of code or laws that give them little or no flexibility and make it harder for them to implement curriculum. He believes that school improvement councils must be educated about this power and what they can do for their schools with regard to flexibility.

Many topics were touched on during the discussion period of the meeting. One lawmaker voiced his frustration that West Virginia must comply with federal standards when he believes the most effective measure to enhance education is for the state to set it's own rigorous set of standards that work for the school system. The general consensus was that one size does not fit all in terms of education throughout the country.

The subject of standardized tests came up and it was pointed out that West Virginia is currently third in the country in the number of special education kids that they test. The state also tests 10 percent more low-income children that generally perform poorer. Lawmakers believe that these factors skew the state's test results.

Lawmakers also emphasized the need for parental involvement in education, specifically mothers. Research has shown that a mother's education is the biggest factor in a child's educational success.

South Charleston Tech Park

During its second meeting of the June Interims, LOCEA members heard reports from the Chancellors of the Higher Education Policy Commission (HEPC) and the Chancellor of the Community and Technical College System (CTCS).

The HEPC Chancellor provided an update on the South Charleston Tech Park purchase and future plans. He also



Interim Highlights

provided some background information which stated that on February 25, 2010, the Governor announced that the State of West Virginia was committed to revitalizing the Technology Park in South Charleston, and urged the Higher Education Policy Commission to move forward on a donation from Union Carbide Corporation, a subsidiary of The Dow Chemical Company, of buildings and property at the 258-acre campus.

The Commission approved the donation on March 4, 2010 which effectively saved more than 450 existing jobs and the park, and is expected to create hundreds, and possibly thousands, more.

The primary goal of the park, the new “West Virginia Education, Research and Technology Park,” is to help transform the state’s economy by spurring job creation and technology-based business development. With existing infrastructure, including lab space, offices and high-tech business tenants, the park will serve as a business incubator for bringing the ideas and discoveries made in the higher education research setting to the marketplace.

The three core research focus areas will be energy, chemicals and materials, and biotechnology. Future tenants will include state agency labs (including the Department of Agriculture), the Kanawha Valley Community and Technical College, higher education services, non-profits and start-up companies. Plans also are underway for a high-tech training center to be built by the West Virginia Community and Technical College System.

The Commission is working to ensure that full compliance and modernization requirements are met prior to complete occupancy of the facilities. A transition steering committee comprised of representatives of local businesses, government officials and state agencies, has been identified and will meet soon to discuss plans for the transition to state ownership by December 15, 2010.

The Commission has two new staff members solely dedicated to the park. One manages facilities and logistics, while the other is spearheading broader planning efforts and coordinating initiatives in line with the state’s vision for the park. These staff members meet weekly with senior manag-

ers at the Commission, including the Chancellor, and in turn hold transition meetings with Dow management officials to secure a seamless transition of the property and facilities.

New tenants at the park will have the opportunity to network and establish productive alliances with other technically-focused organizations, which can provide training, business services, technical consulting and support, and commercialization assistance. In addition, the Marshall University Graduate College offers many classes at its South Charleston campus, adjacent to the park. By adding educational components to the campus, a unique nexus of intellectual property, commercialization and workforce will be generated.

The Commission will continue to update the Legislature on the proceedings regarding the South Charleston Tech Park transition to state government.

The CTCS Chancellor spoke about the master plan for those institutions and changes that have been implemented or will be in the future. He said that over the last five years, the West Virginia Community and Technical College System has focused primarily on access and increasing enrollment. While enrollment still is very important, the System proposes to focus first and foremost on student success (e.g., improving retention and graduation and other student outcomes) over the next five years.

He proposed to change the order of its goals so that student success is Goal 1 and proposed to change the way in which it measures student success to examine outcomes for both full-time and part-time students over a six-year period and to include transfer as a successful outcome and completion of 30+ hours of education plus continued enrollment as a probable successful outcome, all consistent with the “Achieving the Dream” initiative.

He also stated that the CTCS proposes to place greater emphasis on long-term economic/workforce development partnerships over the next five years. All institutions will be expected to participate in three or more regional industry sector partnerships that support key industries in their service areas. The recent focus on developing new and updating current technical programs will continue.



In regard to infrastructure and resources, they propose to focus on acquiring necessary resources (people, facilities and equipment, operating revenue), while operating as efficiently and effectively as possible.

The goals as stated in the Master Plan include: Producing graduates with the general education and technical skills needed to be successful in the workplace or subsequent education; providing workforce development programs that meet the demands of West Virginia’s employers and enhance West Virginia’s economic development efforts; providing access to affordable, comprehensive community and technical college education in all regions of West Virginia; building a solid infrastructure of people, facilities and technology to meet the needs of community and technical college students and employees; and, communicating and collaborating effectively.

These reports are also available on HEPC’s website, <http://wvhpcnew.wvnet.edu>.

Education Subcommittee A

SCR 77

Committee members heard from a couple of speakers regarding vocation education from middle school to adulthood during this month’s meeting.

Vice Chancellor of Academic Affairs for the Higher Education Policy Commission (HEPC) briefly addressed the committee of the importance of vocation education and would like to see more baccalaureate degrees given. He also told the committee that applied science degrees would be the trend in the future.

Assistant State Superintendent of the Division of Technical and Adult Education Services told the committee that there are 156 middle schools throughout West Virginia. She also said that over the past five or six years technical based education classes have dropped mainly due to funding issues and scheduling conflicts for the students. The Assistant State Superintendent told the committee that this trend is a

shame because the technical based education classes are hands on learning for the students, especially those who may have difficulty in understanding from simply listening to a teacher lecture but if they see it done they understand it more. She also told the committee that there are some states that require students to take these technical based classes.

The Division of Technical and Adult Education Services also goes around to high schools informing students about the EDGE initiative which allows students to receive college credit while in high school.

Education Subcommittee B

Education Performance Audit

Reporting to the committee was a Delegate who reported and commented on the Office of Education Performance Audit (OEPA) of a small Wetzel County high school. The lawmaker walked his fellow committee persons through the audit providing queries to the OEPA’s findings and suggestions. The House member suggested that one size does not fit all and the findings lent themselves to those of a large urban high school, not a small, rural community high school.

According to the Delegate, the OEPA had gone beyond the intentions of state law (18-2E-5), which calls for criteria outlined by the Legislature with respect to the process for improving education. The process includes four primary elements, these being: standards which set forth the knowledge and skills that students should know and be able to do, assessments of student performance and progress toward meeting the standards, a system for holding schools and school systems accountable for student performance and progress toward obtaining the knowledge and skills intrinsic to a high quality education, and a method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress.

During his comments, the lawmaker/educator said students should be assessed according to their personal progress from grade to grade. He didn’t agree with the comparison



of one 10th grade class from one school to another 10th grade in another area.

He said the high school evaluated had strong parent-student-teacher interactions and the overall community strongly supported the local high school and its presence in the community.

The numbers of special education students in classrooms should also be taken into consideration when rating overall grade performance as well, the lawmaker noted.

Also appearing before the committee was the Wetzel County School Superintendent. He indicated some of the problems found by the audit have been corrected. However, one correction suggested the science lab be moved from the second floor to the first, which was not feasible for financial purposes. The Superintendent was also disturbed that OEPA team did not talk to all the teachers. He believed the faculty was “attacked” and, as such, the principal retired.

Both the lawmaker and superintendent said the education “bucket was too full. That rural schools are trying to do too many things with too few people and not enough money.”

Education Subcommittee C

Technology

A representative from the Department of Education briefly discussed flexibility for local schools and school systems to acquire and employ technology to improve student performance and progress.

The representative went over an instructional technology for student achievement breakdown and noted that over \$170 million is spent in state schools for computer literacy and augmentation programs.

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Equal Pay Commission

State’s Job Classification System

Members of the Equal Pay Commission heard a report from the Division of Personnel regarding the Hay Group’s examination into the state’s job classification system.

Edward N. Hay, who pioneered many of today’s fundamental people and organizational management practices, founded the Hay Group in 1943. It is a global management consulting firm that works with leaders in many different industries including government to develop talent, organize people to be more effective and motivate them to perform at their best.

Members were told that a statewide evaluation of job classifications within the Executive Branch is underway and the entire process of collecting data, analyzing the data and proposing changes will likely take nine months. As a result of any findings, no jobs will be eliminated nor will salaries be decreased.

Members were also informed there is a website dedicated to answering question about and during this process at www.planswv.gov and were also told that any implementation of proposed pay raises as a result of this study would be done only as funds are available.

Finance Subcommittee A

Utilizing Technology to Improve Schools

Finance Subcommittee members imparted on their discussions regarding the possibilities in allowing local schools and school systems the flexibility to acquire and employ technology to improve student performance and progress.

West Virginia State Code 18-2E-7 calls for 21st Century instruction and learning in all public schools and includes equitable access to high quality, technology tools for students and teachers.



Finance Subcommittee B

State Budget Projections

Lawmakers on this committee were told that, unlike some states, West Virginia hasn't relied on federal stimulus funds to plug holes in the state budget over the past two years.

Representatives from the Executive Branch said that out of a total of \$1.4 billion in federal stimulus grants, only about \$218 million was used to balance the budget, for public education and higher education. Public education got \$80 million of stimulus funds in the 2009-10 budget year, and \$87 million in the current budget year. Higher education got \$22 million of stimulus funds in the 2010 budget year and \$27 million in the current fiscal year. Members were also informed that for the FY 2012 budget, the state would not be relying on any stimulus money.

Early projections are for a \$150 million to \$160 million shortfall in the fiscal 2011-12 budget, assuming there are no pay raises for public school or state employees approved during the 2011 regular session. That figure also assumes that no money will be set aside to pay down the \$8 billion unfunded liability for future health care costs for retired public employees.

To date, the committee was told, the state has spent only about 40 percent of its \$1.4 billion in stimulus funds, totaling about \$568 million. However, more than 90 percent of the funds are obligated, and all \$1.4 billion should be spent by the end of 2011.

Joint Meeting - Gov. Operations/ Gov. Organization

Board of Licensed Dietitians

During one of the meetings during June Interims of the Joint Government Operations/Government Organizations committee members heard legislative audit reports regarding the Board of Licensed Dietitians and the Educational Broadcast Authority (EBA).

A listing of funding from the federal American Assistance Recovery Act (AARA) was provided to lawmakers by the Executive Director of the Office of Instruction Technology within the West Virginia Department of Education (DOE) and the DOE's coordinator of its Office of School Finance. Distribution of the stimulus money was based on enrollment.

West Virginia State Code 18-9A-10 allocates \$150,000 to each county to improve instructional programs according to the county and school electronic strategic improvement plans required by and approved by the State Board.

Up to 25% of this allocation may be used to employ professional educators and service personnel in counties after all applicable provisions of the Code have been fully utilized. Prior to the use of any funds from this section for personnel costs, the county board must receive authorization from the state superintendent of schools. The state superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties and the regional educational service agency for that county in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia 21st Century Strategic Technology Learning Plan.

In addition to state and federal stimulus monies, dollars may be received from Federal EETT (Enhancing Education Through Technology) and from the Federal Telecommunications Act E-rate, which is based on poverty and rural status for discounts on eligible services. While federal funding has been decreased in the past years, the state and local share has been buoyed four-fold.

Essentially, lawmakers inquired as to how much money their local districts have applied for and have received and sought information regarding employment of information technology people



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The Dietitian report concluded that the profession of dietetics can be regulated more economically through a lesser form of regulation and within another state agency or multi-professional board. According to the report, since the Board of Licensed Dietitians (Board) verifies that licensees are certified through the American Dietetic Association (ADA) and have met the ADA's continuing education requirements, the Board's credential is no different than the national credential.

Thus, the primary value to having the Board is to address inquiries and clarification on various issues and to resolve complaints against licensees, since the ADA does not have a complaint resolution process. The nature of this profession does not lead to many complaints. The Board has received one formal complaint since 2006, which was not of serious concern.

The Legislative Auditor has in the past recommended that the Legislature consider creating an "umbrella" board for various licensing boards. If the Legislature chooses not to create an umbrella board, consideration should be given to other options, such as placing the Board within a state agency such as the Bureau for Public Health (BPH) or the Board of Medicine, or terminating the Board and regulate this profession strictly through legislation as is done in the state of Virginia.

The report also states that the Board of Licensed Dietitians has complied with most of the general provisions of Chapter 30 of the West Virginia Code, except for submitting annual reports in a timely manner, keeping a complete register, and providing Board accessibility. The Board is financially self-sufficient and is complying with its continuing education requirements.

Educational Broadcast Authority

In the next report before this committee members heard an audit of the EBA which states the Educational Broadcasting Authority essentially operates two 501(c)(3) Non-Profit Corporations by providing significant fund-raising and administrative support, and violates state purchasing and travel regulations by directly paying for expenses from the Non-Profit Corporations' accounts which are not regulated by the state.

The Legislative Auditor concludes that the lines separating the EBA, the Friends and the Foundation are blurred, and the entities should operate as complete and separate entities with clearly defined and disconnected missions and financial accounts to protect the financial rights of the State and persons affected by the EBA's activities.

The report also found that the EBA should improve the level and the quality of its management information in order to determine the public's needs. Further, The EBA should also establish benchmarks in its performance measures in order to determine whether it is meeting its performance goals.

It further states that currently, the majority of the EBA's management information is gained by user-initiated feedback rather than the agency being proactive in obtaining it. Improved management information will provide the EBA with the management information that may assist it in determining areas where it can improve, what programs and services are needed in order for it to fulfill its mission, whether the users of its services are increasing or declining, and where to allocate its resources.

These reports are available online, <http://www.legis.state.wv.us/Joint/PERD/reports.cfm>

Joint Standing Committee on Gov. Organization

Division of Personnel Study

Committee members discussed the policy of allowing state retirees to work for another state agency and bring their seniority status, longevity and vacation pay as well as their sick leave with them.

During this year's regular session a bill was introduced, SB 592, which stated retired employees working again would be considered new employees. The bill, which came from an interim study last year, passed the Senate but died in the House.

A committee member asked the Director of the state Division of Personnel how the current law affects layoffs and



furloughs. The Director told the committee that its total years of service, not department time. If someone retires with 20 years of service and gets rehired by another state agency, they retain their 20 years from their previous employer. Meaning personnel with less than 20 years of service to the agency would be let go before the retiree.

A number of committee members thought this process was quite unfair. However, retirement officials attending the meeting informed the committee that some retirees could actually earn more in retirement than at work. A representative with Workforce West Virginia told the committee that there is no provision in the state code for deferred retirement so its better to retire and start taking the money, because they wouldn't earn anymore by staying on.

SCR 81

During its second meeting, the committee discussed studying emergency dispatch centers to determine the benefit of training emergency dispatch center employees.

During this month's meeting, the Director of the Office of Emergency Services informed the committee that about half of West Virginia's counties expect dispatchers to undergo some form of certification but there is no regulation in place to require it.

The Office of Emergency Services believes that certifying emergency dispatch workers has proven to save lives and is the right thing to do in West Virginia. Certified dispatchers can help the state avoid litigation by having them in the position of providing emergency instructions instead of just sending an ambulance.

If the Legislature decides to require certification for dispatchers, the Director said that his agency would be willing to provide oversight on the certification process.

The Director informed the committee that most of the resistance by the counties that do not require certification is concerned about the cost of the certification courses. A medical dispatcher in training to become certified must pass a course that costs about \$389 each. That adds up when there is a high turnover rate at 911 centers across the state.

Health - Select Committee

Insurance Exchanges

Starting next year, West Virginia residents without health insurance will be able to go to a single website to compare and contrast different plans, a spokesman for the West Virginia Insurance Commission told the committee.

Federal health care reform legislation passed by Congress in March requires all states to establish either state-run or regional health insurance exchanges by 2014. However, the spokesman said West Virginia already has a head start in implementing its own exchange, which should be ready to launch sometime in 2011.

A health insurance exchange is essentially a one-stop shop where consumers can go to compare different policies and choose the ones that best fit them.

Employers can use exchanges to find the most affordable policies for employees. People who do not get health insurance through their employers or are either self-employed or unemployed can also use the exchange to find the best plans.

Advocates believe insurance exchanges will bring down health insurance costs by exposing insurers to marketplace pressures.

President Barack Obama and congressional Democrats originally toyed with the idea of a national exchange with a public insurance option. The public option died because of a lack of support in Congress. At the same time, national exchange was scaled back to state and regional exchanges, which must be in place by 2014.

Only Utah and Massachusetts currently run exchanges, according to the spokesman. The Utah exchange (www.exchange.utah.gov) mostly is a collection of Web links to other sites where consumers can get insurance information. On the other hand, the Massachusetts exchange (www.mahealthconnector.org) provides quotes on the site once some personal information is entered, such as date of birth and employer ID.



The spokesman went over specific examples of both the Utah and Massachusetts systems while also noting that comparing them specifically to West Virginia would be like comparing apples and oranges.

West Virginia is a step ahead of most other states thanks to a \$37 million federal grant it received to implement health care reforms during the next five years, the spokesman said. A large chunk of that money is going into the creation of an exchange

The spokesman said the exchange would have information about all the different insurance plans in West Virginia and help individuals identify their coverage needs and make decisions about what best fits those needs. West Virginia's exchange will have eligibility portal to help individuals and businesses determine what products they're eligible for; a premium aggregator to help determine costs for different types of coverage; a menu identifying different insurers; and so on.

The state is planning to hire an outside company to design and put up the exchange, according to the spokesman. So far no companies have been awarded a contract.

One issue facing state officials is that a large number of West Virginians do not have access to the Internet at home. Of those who do, many of them do not have high-speed Internet access.

According to the spokesman, the governor has issued an executive order to have the state implement an "off-air" exchange, such as a telephone hotline people can call to get information.

LOCHHRA

Substance Abuse

Initiating their presentation, the state medical director told lawmakers that from 1999 to 2007, the addiction rate of substance abusers increased by 500 percent in the Mountain State. Citing Southern West Virginia as having the greatest

numbers of abusers, the director said unemployment and transportation issues were two of the causes of drug addiction.

West Virginia leads the nation in opiate addiction, according to the Commissioner of the West Virginia Bureau for Medical Services and West Virginia's State Medical Director. Both medical experts addressed the health committee regarding Medicaid requirements relative to Suboxone. Suboxone is used to treat opiate addiction. It contains a combination of buprenorphine and naloxone. Buprenorphine is an opioid medication. Buprenorphine is similar to other opioids such as morphine, codeine, and heroin however, it produces less euphoric ("high") effects and therefore may be easier to stop taking.

To assist persons addicted to oxycodone, hydrocodone and other opiates, methodone is provided in clinics. The treatment calls for a 30-day participation in a program. Following the 30-day on site delivery of the drug, 30 pills are provided in a lump package for use in the next 30 days without having to attend the program. This program is successful if there is a family structure to assist the patient, if jobs are available in an area and if the person is employed. However, if these factors are not available, then the 30-day pill allotment may make it to the streets in place of a paycheck.

With 295 deaths related to methodone combined with multiple substances, such as alcohol and marijuana, 113 certified prescribers, who must be an enrolled Medicaid provider, are replacing methodone with suboxone in the treatment programs. It is administered in an office or by a prescription. The change in the treatment has reduced the death rate to 15 in a three-year period.

According to the presenters, 1,500 patients are being treated with suboxone per month using Medicaid money at a cost of approximately \$400,000. Lawmakers inquired as to whether patients stay on it for life. The medical spokespersons indicated some do stay on it for life but some users say it "re-establishes" a life.

There is also a pre-authorization process for Medicaid coverage since substance abuse is categorized as a disease



but lawmakers also see it as an addiction. They queried the presenters regarding lengths of time the treatment is made available from a lifetime use to a six-month window, as is done in other states. Other lawmakers were looking at a reduction in the dosage and costs to Medicaid, rebates and safeguards regarding direct sales in physician offices.

Infrastructure, Select Committee on

West Virginia Turnpike

Discussions regarding the maintenance and funding of the WV Turnpike were on the agenda of the Select Committee on Infrastructure. West Virginia is one of a few states that maintain its county and city roads - so stretching dollars to cover the overall highway system is becoming increasingly difficult. Lawmakers are seeking ideas regarding alternative funding sources and heard from the WV Parkways, Economic Development & Tourism Authority's General Manager as well as the director of Maintenance and Engineering for the Parkways Authority.

The West Virginia Turnpike is 56 years old and lawmakers were told that 76 percent of traffic on the four-lane interstate comes from out-of-state. Until August 1, 2009, there had been no toll increase in 28 years.

The \$1 billion asset consists of 88 miles or 415 lane miles, 350,000 square feet of facilities (travel plazas, administration building, garages and maintenance garages) and 116 bridges. Forty-five percent of the pavement is in fair to poor condition; 1/3rd consists of 20 to 35-year-old concrete. The average bridge age is 30 years old; deck spalls are graded a "D" level of service. Many of the culvers are original 1950's construction with 35 percent being substandard. Thirty percent of the guardrail is defective.

Lawmakers were told by the general manager and the director of maintenance and engineering the 10-year backlog of essential maintenance and capital needs amounts to \$334,933,000.

Presently, the Maintenance Division has 140 employees, a

reduction of 12% of maintenance staff and 14% of management as existed in 2003.

Routine maintenance is prioritized low and middle priority to critical jobs.

With construction costs escalating, gasoline mileage for vehicles dropping and people "stay-cationing" close to home, the existing forms of funding are not adequate, the highway professionals told lawmakers even with \$25 million added by the recent increase in tolls.

Discussions on alternatives included increasing the gas tax, increasing tolls, and appropriating more state dollars and seeking more funds from the federal government.

Judiciary Subcommittee B

Criminal Sentencing Law Reform

Representatives from the West Virginia Prosecutor's Association and the West Virginia Prosecutor's Institute discussed a West Virginia Law Institute report on recommendations for criminal sentencing law reform for the state.

The Wyoming County Prosecuting Attorney was first to address the committee. He believes there is a lack of definitive data to show a clear picture of what is going on and to track everyone in the criminal justice system. He suggests a comprehensive database that would provide information to everyone in the system, including those on parole, rather than just every prisoner currently in prison.

He expressed the need for more drug rehabilitation and treatment centers across West Virginia. He wants these centers to be available to all defendants to give prosecutors other options to alter criminal behavior earlier in criminal conduct. He believes these centers would help many criminals that commit robberies for the purposes of financing their drug habits. While a robbery is obviously not currently considered a "drug related" crime, and those centers are therefore not currently available to those defendants, the prosecutor believes those criminals that were motivated to



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engage in the crime to further their habit would benefit from these treatment options.

He also made the point that generally, most people in the prison population have been dealt with before. The normally use options other than prison time for first-time sentencing of non-violent crime. Therefore, he said, the system needs to find a way to rehabilitate or deter these first-time offenders so they don't see them in the system again.

The Cabell County Prosecuting Attorney spoke next and he emphasized the need for more use of drug courts, dui courts, and day reporting centers. He also echoed the sentiments of the Wyoming County prosecutor in offering his opinion that the state is doing a poor job of preparing released prisoners to not re-offend. He does not blame the parole board, saying that they do not have adequate staffing, resources or funding to take on this issue.

He also stated that it is a misguided rumor that first offense criminals go to prison. He stated that unless the crime is murder, sexual assault, or kidnapping, the vast majority of prisoners have prior offenses.

He believes that before considering sentencing reductions we need a comprehensive study to address what is really going on in the system with law enforcement, the judicial system and victims' families all giving input.

The Fayette County Prosecuting Attorney was next and he suggested that the felony murder law be changed while noting that the report's comparison of forgery and uttering to petty larceny and grand larceny is off. The felony murder law state's that if a person is involved in a robbery and a murder happens as a result of the robbery, everyone involved in the robbery is charged with murder, even if they took no part in the actual murder itself. The prosecutor said he believes that forgery and uttering is a more severe crime than petty and grand larceny because larceny is simply a theft, while forgery and uttering involves many organizations including banks and businesses. It is in effect a more sophisticated manner of theft through various channels.

He also echoed earlier sentiments regarding an investment in a drug treatment program being the biggest factor

in controlling the prison population as well as the need for a central comprehensive database with complete criminal history information for everyone currently in the criminal justice system.

The Chief Public Defender of Kanawha County also spoke, adding a different perspective to the discussion. He made the point that the rising prison population in the state is confusing because while the state's prison population is rising, overall population has either decreased or stayed the same. Most states with a rising prison population have also experienced a rise in overall population as well.

The public defender stated that he sees an overall harshness in the state, across the law enforcement spectrum. He believes that with as much investment as the Legislature has put into alternative sentencing, the state's prison population should be lowering. He thinks the reason it is not comes from the harshness displayed from police, prosecutors on what sentence they impose and the Division of Corrections personnel for not allowing good time credits when served.

He also believes the state's parole boards are flawed. Currently, all parole board members are required to have a criminal justice degree but none of them are required to have a degree in social work or any form of criminal rehabilitation. He thinks the rehabilitation specialists and social workers need a seat at the parole board table.

He also believes that there should not be a prohibition on alternative sentencing for crimes involving violence. He made the point that many crimes involve violence. He gave the example of domestic disputes in which regrettable shoving or lesser violence is still considered violent by the courts and therefore alternative sentencing is not available.

He also said that while it's presented in the report that the prison population has always increased, in fact, in 2008 it was totally level and then in 2009 it went up again. He suggested looking at what happened in 2008, what worked and why it stopped working in 2009.

The WVU Law Professor charged with doing this report for the Law Institute also spoke to the committee. He believes that modernizing the state code would fix a lot of the prob-



lems. He also confirmed that all stakeholders in the report had a seat at the table including law enforcement, Division of Corrections, prosecutors, defense attorneys and judges.

He also believes the felony murder rule creates a lot of injustices and should be re-written.

Lastly, staff counsel presented the committee with some recent South Carolina legislation on sentencing reform, including a bill that enacted many of the recommendations in the West Virginia Law Institute's report.

Judiciary Subcommittee C

Emergency Price Gouging

The Assistant Attorney General discussed West Virginia's emergency price gouging rules during this month's interim meeting.

West Virginia allows during a state of emergency, issued by the Governor, Legislature or President, a seller to raise prices by 10 percent. West Virginia prohibits prices at more than 10 percent above the price for necessary goods and services during the 10 days before a declared emergency. The only exception is if the increase is attributed to increased costs associated with providing the good or service during the emergency. A state of emergency normally lasts 30 days.

The most obvious price-gouging problem relates to fuel costs, the Assistant Attorney General said. One of the problems in West Virginia is that in most of West Virginia there is one major supplier, Marathon, which they have said that about 90 percent contracted out by other companies within the state so it is difficult to determine their daily cost.

Although there may be some problems to the emergency price gouging statute, the Assistant Attorney General told the committee that it is hard to come up with anything that isn't already in place. The Attorney General can't regulate the daily cost for Marathon because Marathon keeps telling them that they don't know what their daily costs are. The Attorney General's office is hard-pressed to push the issue

because Marathon has the ability to withhold their product, which would hurt West Virginians even more.

Legislation was introduced during the regular session, SB 660, which would have altered state law relating to price gouging. One of the changes would strike out under the state of emergency definition, a major disaster declaration or emergency declaration issued by the President of the United States. This was removed due to the fact that a number of states of emergencies are lengthened or doesn't really have an affect on West Virginia, but it still gives suppliers the ability to raise their prices. One example of this is the H1N1 State of Emergency, which is currently still in effect.

The second change the Senate bill would have done was if a supplier of gasoline or other motor fuels couldn't determine their daily costs, the supplier may sell gasoline or other motor fuels to distributors on any day at a rate not to exceed the average of the Oil Price Information Service's average wholesale rack price for that product at the wholesale racks for the previous day.

While the Assistant Attorney General didn't have too many issues with the first change made under the proposed bill, the Attorney General's Office did have problems with the last change because Marathon would be required to give them numbers that they say they don't have and they want to make sure that West Virginia stations and consumers are paying the right prices.

The Chairs told the committee that they will continue to study this issue throughout the year and will invite representatives from Marathon as well as local gas station owners on their feelings on the current laws in place for emergency price gouging.

Counsel also presented committee members with draft legislation relating to health care coverage for autism. There are currently 19 states with autism insurance coverage.

When asked as to how the new health care bill passed by Congress this year will deal with insuring autism, Counsel said that it looked like the bill will help some.



PEIA, Seniors & Long Term Care, Select Committee on

PEIA Update

The director of PEIA gave a presentation to the committee. He discussed various changes in plans. He informed the committee that Carelink is no longer with PEIA. Those employees with Carelink have subsequently been defaulted to PEIA Plan A and an open enrollment in July will allow them to choose whatever plan they want.

The committee was told that PEIA is no longer covering procedures at two Marietta, OH hospitals. They were unable to negotiate a satisfactory premium and could not get providers to sign on. However in electing to drop the coverage they research and found out that there were few if any procedures done in Marietta that could not also be done in a Parkersburg, WV hospital.

The director noted a change set to take place July 1 that will affect 27 thousand people in the state. They are making a change based on a high performance formulary that will switch both active members and retirees to the most cost effective drugs for their conditions.

The director noted that they are trying to make PEIA provide an incentive for people to listen to their doctors and follow their orders, thereby using preventative care and looking for the most cost effective and efficient medicines.

He noted that PEIA has dealt with OPEB liability and realizes they need a \$300 or \$400 million funding source to keep it going. In the director's opinion, if OPEB is not dealt with it will eventually fix itself. There will, in time, be no cash to support it, everyone will go to Medicare and benefits will be cut.

Parks, Recreation & Natural Resources Subcommittee

Droop Mountain Battlefield State Park

West Virginia's 150th Birthday will be celebrated on June 20, 2013. The superintendent of Droop Mountain Battlefield

State Park notified members of the Parks and Recreation Committee that the park also will celebrate its 150 year-old history in 2013.

According to the superintendent, the Droop Mountain battle was a small engagement by Civil War standards, but the site holds the history to West Virginia's last significant Civil War battle. Operations in the Shenandoah Valley in the spring of 1864 drew remaining confederate troops out of West Virginia, thus leaving the new state securely under the control of the federal government for the remainder of the war.

Providing a brief summary of heroic leaders and soldiers from both sides of the war, the superintendent told lawmakers the park is being maintained so that deeds of glory, memories of the past and the rich history of West Virginia's role in the war between the states does not go forgotten.

Located in the Greenbrier River Valley north of Lewisburg, Droop Mountain Battlefield State Park will herald its 150th anniversary with a series of hikes that re-enact the paths taken by advancing and retreating troops. Additional signage featuring quotes and various pictures will be posted throughout the park and a series of re-enacted battles are being planned so the 2013 event will be one well remembered by attendees.

Pensions & Retirement, Joint Standing Comm. on

Higher Education Personnel Retirement

Incentives for retirement for individuals working in higher institutions of learning and the incentive's potential impact on the state's retirement systems were one source of discussion for the Pensions and Retirement Committee members.

A presentation was provided by committee counsel regarding an explanation of each state institution's requirements in developing a strategic plan. According to counsel, policies may offer various incentives for voluntary, early or phased retirement of employees or voluntary separation from employment when necessary to implement programmatic



changes; provided the institution meets all the requirements and obtains legislative approval. The incentives must be submitted by the school’s governing board to the legislative joint committee on pensions and retirement and approved before such policies are adopted.

As such, an analysis of the potential additional actuarial cost for the Teachers Retirement System (TRS) using West Liberty University’s Faculty/Staff Severance Benefit Plan (SBP) was provided by the state’s actuary.

The actuary explained the financial incentives, payments and eligibility requirements. Indicating that a number of older and long service employees are electing to continue employment with the university. By providing the SBP benefit payments, enticements to end their employment will benefit the University by eliminating tenured long-term staff. The direct benefit cost cannot be determined until SBP participation is finalized.

Of particular concern to the actuary were the potential actuarial losses in TRS. According to the actuary, for the limited number of university employees who are members in TRS, the change in expected retirement behavior to immediate retirement due to the SBP results in an “actuarial loss” to TRS. It was noted that West Liberty must fund any actuarial loss as part of the SBP or those losses will increase TRS costs to other TRS employers.

Also before the committee was a representative from the State Treasurer’s Office who gave the status on the Actuarial Study for Municipal Police and Firefighter Retirement Funds.

The only city who signed on to the new state plan is Huntington. With 53 pension plans, the spokesperson expects each city’s financial assessment to begin trickling into the Treasurer’s Office starting in August and ending at the close of the year. She indicated changes in city government, such as a new treasurer, new training procedures and new personnel can slow the audit down.

Regional Jail & Correctional Facility Authority

Department Updates

Committee members received updates from the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juveniles during June’s meeting.

The Executive Director of the Regional Jail and Correctional Facility Authority briefly informed the committee that the number of inmates in West Virginia’s regional jails stands at 4,139.

The Director of West Virginia’s Division of Juvenile Services (DJS) informed the committee that the DJS opened new Youth Reporting Centers in Putnam and Wood Counties during the month of May and anticipate the opening of Youth Reporting Centers in Mercer and Wayne counties. There are currently nine of these centers in West Virginia. Most of the funding for the Youth Reporting Centers comes from DJS and some grants.

Last to update the committee was the Commissioner of the Division of Corrections (DOC) who provided information on the procedure of issuing ID cards to members of the legislature who wish to visit a facility operated by the West Virginia DOC, DJS, and Regional Jail and Correctional Facility Authority.

Veterans’ Affairs, Select Committee on

Veteran Employment Assistance

During this month’s meeting, committee members were informed of the various programs available to help veterans find employment

First to address the committee was a Region Three Veterans Employer Representative with Workforce West Virginia who told the committee that Workforce WV gives priority service to active and discharged veterans who have had at least one day of active duty.



Interim Highlights

The representative told the committee that Workforce WV identifies and informs those veterans eligible for Workforce WV's services. He did, however, tell the committee there is a disconnect between returning veterans and Workforce WV - making it difficult to reach all veterans. There are a total of 16 veteran representatives throughout the state.

Services provided by Workforce WV for veterans include the Workforce Investment Act (WIA) and the Veterans Upward Bound program. WIA is a "work first" program designed to assist candidates in pursuing employment. Candidates, however, must be registered with the Charleston Work4WV Career Center as well as attend workshops designed to assist with employment. Veterans Upward Bound is a free educational program for veterans that is sponsored by Davis and Elkins College and is funded by the U.S. Department of Education. This program prepares veterans living in West Virginia for success in college and other post-secondary training.

Workforce WV also offers tax incentives to employers who hire veterans who have had difficulty finding employment. The Military Incentive Program (MIP) gives a tax credit on an employer's personal income tax if he/she hires disabled veterans, economically disadvantaged Vietnam-era or Korean conflict veterans, or unemployed active members of the National Guard or Reserves. The Work Opportunity Tax Credit (WOTC) gives a tax credit to employers who hire new employees who have historically had difficulty in finding employment. The credit is used to reduce the federal tax liability of private-for-profit employers. In order to receive the tax credit for either the MIP or the WOTC the employee must work for the employer for at least one year.

Priority service employment is given to some veterans, as well as their dependent spouses as well as the dependent mothers of veterans who died under honorable circumstances while on active duty, preference for a federal job. However, veterans' preference does not guarantee a job.

The representative also told the committee that Workforce WV also provides information to active or recently discharged veterans of the new Post-9/11 GI Bill's Yellow Ribbon Program.

The Yellow Ribbon Program allows institutions of higher learning in the United States to voluntarily enter into an agreement with the VA to fund tuition expenses that exceed the public in-state undergraduate tuition rate. The Post-9/11 GI Bill pays up to the highest public in-state undergraduate tuition and fees. Those eligible for the program:

- Must have served an aggregate period of active duty after September 10, 2001, or at least 36 months.
- Honorably discharged from active duty for a service connected disability and served 30 continuous days after September 10, 2001
- Dependent eligible for Transfer of Entitlement under the Post- 9/11 GI Bill based on a veteran's service.

The representative also told the committee that many veterans and active duty personnel can qualify for more than one education benefits program including:

- Post 9/11 GI Bill
- Montgomery GI Bill
- Reserve Educational Assistance Program
- Post Vietnam Era Veterans' Educational Assistance program.

Next to address the committee was the Coordinator for West Virginia's Troops to Teachers Program.

Troops for Teachers is a U.S. Department of Education and Department of Defense program, created in 1994, that provides assistance and placement services to military personnel interested in beginning a second career in teaching.

Although Troops to Teachers was created in 1994, the program didn't kick start in West Virginia until 2008.

The Coordinator told the committee that Troops to Teachers provides career counseling and also lays out the options prospective participants have in becoming teachers in West Virginia.

Those eligible for Troops to Teachers' services must meet certain requirements in service and education. Service and education requirements include:



Interim Highlights

- Military personnel who have retired, active duty personnel who separate with six or more years of service on or after October 1, 1990, or current members of the Selected Reserve with six or more years of creditable service towards retirement.

- Must have a Bachelor's degree or advanced degree from an accredited college at the time of registration for academic teacher referral or have the equivalent of one year of college with six years of work experience in a vocational or technical field or meet state requirements for vocational/technical teacher referral.

Those who qualify for the program may be able to receive financial assistance. Assistance provided includes:

- A stipend of up to \$5,000 for teacher certification expenses for individuals who teach for three years in a "high-need" school.
- Bonus of \$10,000 to teach for three years in a school serving a high percentage of disadvantaged students.

The Coordinator told the committee that he has had a number of inquiries on the program but the problem that seems to hold those back from committing to the program is the time and service requirement and then have to go through the certification process after that.

Nationally, 27 percent of those in the Troops to Teachers program are teaching subject areas that tend to be difficult to teach like math. The Coordinator said that military service men and women make wonderful teachers because they at some point have led and were a part of a team accustomed to subjects like math and science so they are more apt to teach in these areas. With these qualifications the Coordinator told the committee that West Virginia receive very qualified teachers. Since 2008, a total of 133 veterans have registered with the program. The goal is to have 12-13 of them hired by next year.

The one major problem facing West Virginia's Troops to Teachers program is the lack of manpower to advertise the program. The Coordinator of the program oversees the entire program and it becomes difficult to reach all of the state's veterans. He also said that other problems are the low teacher salaries, work experience in the military not rec-

ognized, and the low marketing budget the state receives. He did tell the committee that when he talks to prospective candidates he emphasized the perks of living in West Virginia with the low cost of living and how more teachers in the state will be retiring soon providing more job opportunities within the next few years.

Last to address the committee was the Veterans' Coordinator for the Higher Education Policy Commission (HEPC) who informed the committee of the education and training programs offered through the HEPC for veterans.

The vision of the Office of Veterans Education and Training is to reach out to every eligible West Virginian and make them aware of and provide them with full and fair access to high quality educational and training programs that can help them reach their full potential.

There are currently more than 2,700 programs in West Virginia in:

- 47 colleges and universities
- 33 non-college degree schools
- 41 apprenticeship and other on-job training programs
- 1 flight school

Last year, 4,600 veterans entered a college program and this year the number is already almost 4,800. About 1,200 of those are attending public colleges with 3,400 attending private online programs through colleges like the University of Phoenix. The economic impact of these veterans enrolling in these programs is \$52 million a year.

However, like the other two speakers before him, the veterans coordinator told the committee that one of the problems is that only 50 percent of the veterans eligible under the new GI Bill are using the benefits. He also said that there are also some problems with the new GI Bill itself that has caused some problems like many students not being paid for the fall semester. However, he said that a bill in Congress would fix a lot of the problems. The veterans coordinator assured the committee that his office is working with the VA regularly about the problems the delays are causing.

Upcoming plans at the Veterans Office of Education and Training include:



- A symposium on July 28th at Concord University that will allow for networking and organizations to share resources as well as getting ideas for a veteran friendly bill.
- Research on veterans’ success and participation in the state.
- Establish good database of veteran enrollment
- Continuing training for school officials and others
- Emphasis on “veteran-friendly campus” programs

Water Resources, Joint Legislative Oversight Commission on

Natural Gas Industry/ Marcellus Wells

The topic of discussion for the Water Resources covered the natural gas industry and the impacts of Marcellus wells development to the state.

Initiating the agenda was the director of the Research and Development Division of the State Tax Department. He listed amounts of taxes paid by the natural gas industry to the state. According to CY2009 Collections the severance tax return data was \$65,877,993 in regular severance tax; \$1,140,779 for coal-bed methane severance tax; and, \$11,231,682 from the workers compensation severance tax. The total tax return data indicated a total of \$78,250,454 to the state.

Lawmakers are seeking further information from the Department of Environmental Protection (DEP) regarding low-volume well exclusions in the coming months.

Also appearing before the committee was a spokesperson representing the West Virginia Independent Oil and Gas Association (IOGA) who explained the economic and future employment benefits regarding Marcellus gas development.

Marcellus shale is sedimentary rock found in eastern North America. Named for a distinctive outcrop near the village of Marcellus, New York it extends throughout much of the Appalachian Basin. Significantly, the shale contains largely untapped natural gas reserves, and its proximity to the high-demand markets along the East Coast of the United States make it an attractive target for energy development.

While Pennsylvania has the bulk of the shale, the rock also lies beneath portions of Central West Virginia. Production of the natural gas can open the door to many economic opportunities, according to the gas association.

From legal and regulatory work to surveyors, equipment manufacturing, construction, drivers, welders, oil field suppliers, plastic pipe manufacturing, service companies, rig hands, well tenders, engineers, geologists, etc. - the production of natural gas from Marcellus shale, the IOGA representative told lawmakers.

Armed with comparisons between Pennsylvania’s economic Marcellus success and West Virginia’s economic opportunities, the spokesperson provided further positive arguments to the committee.

The Legislative Water Resources Committee also received material from the gas representative regarding the water requirements for Marcellus. “Fracing” a typical horizontal well requires 3-5 millions of gallons. More than 30 state and federal regulator agencies have extensively studied hydraulic fracturing technology (the manner in which the gas is retrieved). According to the material provided, there are zero confirmed cases of groundwater contamination in the one millions wells “fraced” over the last 60 years.

Water use per million btu of energy was compared to deep shale natural gas - 0.60-5.80 gallons; Marcellus Shale gas - average - 1 gallon; conventional oil -8-20 gallons (including waterflooding); synfuel-coal gasification - 11-26 gallons; coal (delivered power plant) - 13-32 gallons; oil shale - 22-56 gallons; tar sands/oil sands - 27-68 gallons; fuel ethanol from corn - 2,510-29,100 gallons (irrigation); and, biodiesel from soy - 14,000 - 75,000 gallons (irrigation).

Since frac wastewater contains salt and other naturally occurring dissolved solids, the water is removed from a site by either truck or a pipeline and treated traditionally. According to the spokesperson, the DEP and industry are prepared for Marcellus wastewater.

In addition, the spokesperson told lawmakers that Marcellus drilling uses less water than the state’s golf courses and ski resorts; will not contaminate drinking water; and, fracing



has been a standard operating procedure for drilling since the 1950s.

Presently, the 32 states have borrowed a total of nearly \$38 billion from the federal government to pay unemployment benefits, headed by California at \$7 billion and Michigan at \$3.8 billion. 

LOCWIED

Unemployment Compensation Fund

A representative from Workforce West Virginia told the committee that 32 states have watched their unemployment compensation funds go broke, including every state surrounding West Virginia.

Currently, West Virginia has \$109 million remaining in its fund, but is on pace to empty that account to pay out unemployment benefits by the end of this year. Based on projections using unemployment figures from 2009, West Virginia will exhaust its unemployment compensation fund in December. It should be noted that 2009 was a year when the recession led to an upswing in new claims. The recession also produced a record amount of benefits paid, with weekly benefits peaking at just above the \$7.5 million mark for one week in July 2009.

So far in 2010, claims and benefits paid have trended lower. Currently, weekly benefits are totaling just over \$4.5 million. The representative cited two factors as to why the West Virginia fund was still solvent. First, legislators last year raised the base wage on which state unemployment taxes are collected from \$8,000 to \$12,000. Second, the state transferred \$40 million of surplus from the state Insurance Commission funds to the unemployment compensation fund.

When states exhaust their unemployment compensation funds, they have to take on federal loans to pay unemployment benefits and the federal government recoups those loans by increasing the federal unemployment tax rate charged to employers in those states, he said.

If West Virginia's fund were to go broke and the state has to rely on federal help and loans the additional tax rate on employers will work out to \$21 per employee in the first year and would increase by \$21 per employee in each subsequent year that the loans are not repaid.

Interim Committee Meetings

2010/ 2011

- July 19 - 21, 2010
- August 9 - 11, 2010
- September 13 - 15, 2010
- October 11 - 13, 2010
- November 15 - 17, 2010
- December 13 - 15, 2010
- January 9 - 11, 2011

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