



# INTERIM HIGHLIGHTS

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

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## Economic Development

### West Virginia Tax Credit Reviews

Committee members heard from West Virginia's Deputy Secretary of Revenue who presented a tax credit review and accountability report. The committee has been assigned with, under Senate Concurrent Resolution 79, studying West Virginia's tax credits.

The Deputy Secretary began by giving the committee a history on West Virginia's tax credit reform legislation that began in 1990 with the Super Credit. This credit did not apply to severance tax, tightened job creation requirements, and mandated a credit application prior to the use of credits. In 1993, the Super Credit was changed so that it was restricted to certain industries and companies had to defer 20 percent of the credit until use in the 13th to 15th years. In 2002 there was an investment tax credit program overhaul, which axed more than 12 tax credits at the end of 2002. It then created three replacement tax credits: Economic Opportunity, Manufacturing Investment, and Strategic Research and Development.

Tax Credit Reviews and Accountability Reports are required every three years. A review of three major investment credits created in 2003 included the number of claims, net jobs created and costs per job, data on employee benefits paid and comparison with industry as a whole.

The Economic Opportunity credit is a 20 percent credit over 10-13 years. A total of 20 claims have been filed

for this credit from 13 taxpayers. The average annual expenditure value was \$4.3 million from 2006-2009. The projected new jobs from the credit are 4,286. In tax year 2009 3,131 new jobs were created with an actual payroll of \$124.6 million.

Qualified taxpayers who can claim the Economic Opportunity credit are manufacturing, information processing, warehousing, non-retail goods distribution, R&D, destination-oriented recreation/ tourism industries.

The Manufacturing Investment Credit is a five percent credit over 10 years. Total claims are 120 from 111 taxpayers and \$4.3 million expenditure in 2009. Stable employment net change over seven years was plus 2,000.

The Strategic R&D is a Higher of 3 percent or 10 percent of excess credit. From 2003-2009, 33 separate taxpayers have claimed the credit. In 2009, there were 18 claims filed and \$1.6 million claimed. Median employment increase per firm was 2.5 and median pay nearly \$62,000.

The Deputy Secretary told the committee that the three year reports are beneficial in tracking how effective these credits are and how many are taking advantage of them. Also learned from these reports is how tax credits borrowed from other states may not work in West Virginia. One example was the state adopting Kentucky's Enterprise Zone incentives in 1986. It was found out later that no geographic zone in the state meets enterprise zone definitions. The report also shows that some tax credits have no fiscal impact for various reasons such as



lack of interest by taxpayers due to marginal benefits.

The Deputy Secretary stated that the rule of thumb for new tax credits is a minimum of three years of ramp up time.

Broad based relief is being chosen over tax credits since the philosophy has changed beginning with the Manchin administration. For example, the business franchise tax, which is nearly 23 percent of total investment tax credits claimed, is being phased out. The rate phase down was 0.7 percent in 2006 and will be 0 percent by 2015.

In his report the Deputy Secretary concluded the following:

- Investment tax credits play a smaller role over time in state finances
- Tax rate reduction effectively reduce the value of tax credits except for refundable/transferrable programs
- Major new programs require application and contain recapture provisions
- Participation rates are far below 100 percent. Rate falls as the number of alternatives to credits increase.

## **LOCEA**

### **Mountain State University Loss of Accreditation**

The committee heard from various higher learning officials regarding Mountain State University’s recent loss of accreditation.

While it was recently announced that the school will retain its accreditation through Dec 31, the Chancellor of

the West Virginia Higher Education Policy Commission said plans are being made throughout the state to take care of students with partial degrees that extend beyond this coming fall semester.

The head of the state’s Community and Technical College System said MSU is no longer eligible for student financial aid programs, no new students can be accepted at the school and a teach-out plan must be created for students who are currently enrolled.

The CTC head said he has taken part in two meetings so far regarding associate-degree level programs at MSU. He said students in the physical therapy, occupational therapy and medical assistant programs should be able to finish their degrees at New River Community and Technical College.

According to the CTC head, the schools in his system are being encouraged to look at their criteria, their rules and their policies to see what extent those rules or policies will accommodate the transfer of these students.

The CTC council has state funds for technical development, and if New River CTC takes on physical therapy and occupational therapy assistant programs, the school could use those funds.

The Chancellor said MSU has offered counseling sessions for students to meet with representatives from many other state colleges and universities to review their options for transferring credits. He said nearly 200 students have already participated in those sessions.

According to the Chancellor, more than 900 students



had qualified for state-level financial aid at MSU for the fall semester, and those financial aid packages are still valid for any other state institution.

## **Education Subcommittee A**

### **Scratch Foods Initiative**

The Coordinator for the West Virginia Office of Child Nutrition, spoke to committee members on the Scratch Foods Initiative during July’s interim meeting.

Cabell County schools were a big boost to cooking from scratch breakfast and lunch for their students. The results of cooking from scratch have been greatly beneficial and the students seem to really enjoy the meals.

There are 16 Cabell County cooks are now holding training camps for counties who wish to be trained on “From Scratch.” The training began last June when eight counties participated in the training. As of this month, 27 counties have taken the training. These county cooks leave with recipes, market orders needed for the food and equipment needed to prepare the food. The expectation is that those who came to the training will go back to their counties and teach others.

Those who attend the training are not required to participate in the From Scratch program. The Coordinator told the committee that ideally it would be nice to see the program phased in at every school.

Preliminary data is showing that schools serving homemade meals to their students are seeing less

discipline problems and fewer absences among other things.

When asked if there is an added expense in go from scratch, the Coordinator said it depends on what recipes they are using. However, she added that as more schools go this route a larger need for these items will create less expensive items in the long run.

The nutritional benefits to this program is reduced process foods reduces sodium levels, only olive oil is used in cooking, and 51 percent whole wheat guidelines are administered in the food.

The Coordinator said that her experience has been that most of the time, children loved the food, especially elementary children.

Next to address the committee was the Fayette County Schools Food Service Director who talked about the Farms to School Initiative.

Fayette schools are buying local farm products to serve their students. Schools also advertise where the food was purchased from as well.

Every school in Fayette now has a garden and/or a greenhouse so that children can work in the gardens and learn to grow their own food. The Food Service Director told the committee that children are learning environmental stewardship, spending more time outside, and are even scoring better in math and science. Gardening is something that engages students and teaches them in the process. It’s also a hands on job opportunity as well as builds a child’s self esteem especially in the younger students.



## **Education Subcommittee B**

### **Reconnecting McDowell Project**

The Executive Director of the West Virginia School Service Personnel Association (WVSSP) and representative with the Reconnecting McDowell Project provided committee members with an overview of system improvement issues for McDowell County schools during July’s interim meeting.

According to its website, Reconnecting McDowell “is a comprehensive, long-term effort to make educational improvement in McDowell County the route to a brighter economic future. Partners from business, foundations, government, non-profit agencies and labor have committed, in a signed covenant, to seeking solutions to McDowell’s complex problems—poverty, underperforming schools, drug and alcohol abuse, housing shortages, limited medical services, and inadequate access to technology and transportation. Each partner has agreed to provide services, money, products and/or expertise to lift McDowell County’s schools, students and their families.”

The Executive Director of WVSSP told the committee that the Project started with 40 partners on board. That number has now risen to 87, which makes this project unprecedented.

However, the problems plaguing McDowell currently are multi-layered. A major problem is the prescription drug problem that runs rampant in the county. The War mayor recently fell victim to this problem as he was robbed and then murdered in order to finance another’s addiction.

The children of McDowell, according to the Executive Director, are suffering from health issues, hunger, and boredom. Recent statistics show that 72 percent of students in McDowell schools live with non-working adults.

Not only is Reconnecting McDowell hoping to provide a better educational environment to the children, they hope to reinvigorate through transportation, housing, economic development, etc.

Attempts in doing this has been made in the past but they were not coordinated efforts and thus fell apart. Reconnecting McDowell is a collaborative and coordinated effort. However, those involved in the project are not unaware of the problems ahead as they are complex ones and could be overwhelming.

The planning phase alone of this project has taken six months and \$250,000 has been spent on simply beginning the process. In the planning phase many town hall meeting have been held throughout the county in order to get citizen input.

Money from companies have poured in. Save the children has provided \$1 million, Verizon has given \$50,000, and AFL-CIO has given funding to help dig water lines to five new homes that are being built. The WV Supreme Court has created a juvenile drug court in the county and talks are occurring of creating a family drug court. Mining companies are getting involved by creating an apprenticeship program that will create 25 jobs in the county.

The U.S Secretary of Education will be coming to the county September 20th to tour the schools. Last





month, Reconnecting McDowell applied for a promise neighborhood grant and has been registered with the IRS as a non-profit.

The Executive Director told the committee that one of the most exciting projects occurring is what will be known as a teacher village. The down payment on a building in McDowell has been made that will provide 23 to 25 apartments for teachers. Right now there are no housing options for these new teachers.

The new Superintendent of McDowell County Schools briefly addressed the committee by saying that he can see the progress being made in the county. He said that if he hadn't seen progress then he wouldn't have considered accepting the job, which he accepted three weeks prior to the interim meeting. The Superintendent did add that this is not just a problem with the school system in McDowell. It is a multi-faceted one that if not all areas of need are focused on that it won't be effective. However, he said that the changes he are seeing are effective and look promising. When one lawmaker asked how the citizens are reacting to the help being promised under this project, the Superintendent said that they are skeptical until they begin seeing the changes. A problem facing McDowell that was mentioned by the Superintendent includes the continuing drug problem, lack of jobs and infrastructure, and activities for McDowell children. He stated that many children live in hollows with adults that can't afford to send them to camps and participate in activities. He hopes that something can come of transportation needs for these children as well.

## **Education Subcommittee C**

### **Truancy in West Virginia Schools**

At July's interim meeting, the Assistant state Superintendent of Schools told Education C committee members that student absences have been declining steadily since the 2008-2009 school year.

The number of students with five or more unexcused absences dropped from 121,958 in 2008-2009 to 101,977 in 2011-2012. The number of students with 10 or more absences dropped from 60,605 to 45,345 during the same timeframe. Those students with 20 or more absences dropped from 19,263 to 14,342.

The Assistant Superintendent told lawmakers that she could not give a specific reason for the drop in truancy numbers but did suggest that the county school systems are taking their own steps to address the problem and are also joining a truancy initiative lead by the West Virginia Supreme Court.

Monongalia County schools started an effort with county judges and magistrates to target the problem at the elementary school level and also targeting individual students that are skipping school. There is one court liaison in each of Monongalia's 18 schools who, along with attendance specialists, meet with problem students on a weekly basis.

Data is still being collected on the truancy problem still plaguing West Virginia schools. After more information is given, lawmakers will then consider whether legislation relating to truancy would be beneficial to West Virginia's schools.

**Interim Meeting Schedule & Agendas**  
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The West Virginia Supreme Court’s initiative calls for judicial officials around the state to combat truancy in their own counties. Some counties have done this but the more rural counties continue to struggle with truancy in their schools.

## **Finance Subcommittee A**

### **WVU Marcellus Shale Research Center**

General Counsel for the West Virginia Higher Education Policy Commission (HEPC) and the Vice President for Corporate and Legal Affairs and General Counsel for West Virginia University discussed the provisions of House Bill 4511, which would have created the Shale Research, Education, Policy and Economic Development Center at West Virginia University during Finance A’s July interim meeting.

General Counsel for WVU told the committee that WVU is already establishing this research center but the university is hoping to be recognized by the Legislature and seen as the state center for Marcellus shale research. It would also increase WVU’s credibility when talking to future investors from various international and government agencies.

The General Counsel told lawmakers there are very few centers like this for shale research in the World let alone at universities - giving West Virginia a unique position.

Research is already underway at WVU regarding Marcellus Shale. They are looking in to how we make it environmentally friendly and viable. The General

Counsel for WVU told the committee that the oil and natural gas industry is already established in the state so why not perfect it?

House Bill 4511 passed the House with little changes but the Senate had some issues when it came to oversight of the research center. Even though there was a fiscal note attached to the bill, no funding was requested in the bill. However, General Counsel told the committee that WVU would not turn down funding for the center. One project the university was hoping to do was drill a well at WVU in order to collect data in the process of drilling. Investors for the project had to fold their support after gas prices fell. Through the drilling, the research center hopes to have transparent data when it comes to the drilling of Marcellus Shale.

The center will also research other deposits that are continuously being discovered such as the Utica Shale which underlies much of the northeastern United States. WVU has been in discussions with Ohio State University, who is heavily researching the Utica Shale.

## **Forest Management Review Commission**

### **Wood Products/Managed Timberland**

Commission members heard presentations regarding the wood products industry in West Virginia as well as a report regarding the managed timberland program.

The wood products industry has seen job growth during the last 25 years, when other West Virginia industries



have seen significant job losses. West Virginia’s wood products industries are poised for growth in future the commission was told. In addition, the jobs in West Virginia’s wood products industries support many other jobs throughout the state.

Wood products businesses buy goods and services from other industries, while employees of wood products firms spend significant portions of their incomes buying West Virginia goods and services. In turn, these businesses and their employees spend money in the state. These purchases create what is commonly referred to as the multiplier effect.

Utilizing information from surveys of wood products manufacturers along with publicly available data and the IMPLAN modeling software, the total economic impact of the wood products industry was estimated. Table 1 shows the direct, indirect and induced, and total economic impact of West Virginia’s wood products industry. West Virginia’s wood products industry contributes more than \$4 billion annually to the West Virginia economy.

West Virginia’s wood products industry accounts for nearly 30,000 jobs across the state and pays in excess of \$703 million of employee compensation. All of this activity generates significant tax revenues for the state, including \$45.4 million in timber severance taxes, consumer sales taxes, personal income taxes, corporate net income taxes, and business franchise taxes.

West Virginia’s wood products industry is a major player in the West Virginia economy and, with continued efforts to manage the risks to the resource, has the ability to continue to prosper in the state

Next, members heard a discussion of the managed timberland tax incentive program. West Virginia is 79 percent timberland (12 ½ million acres). The majority of this land is owned by small private landowners. This living and growing renewable resource has a major influence on our environment and supports an industry which is growing in both jobs and economic value.

The representative stated that the state recognizes the value of managing this resource. Through proper management, the potential losses to wildfire, insect, disease and exploitation can be reduced. This tax incentive approach was enacted to encourage landowners to actively manage their forest land thereby increasing the amount and quality of the resource.

Further, he stated, everyone benefits because managed timberland is much more productive than non-managed timberland. In addition to increased income, it creates a diverse environment, including wildlife habitat, and overall use and appreciation of the land. Proper management encourages business, which means jobs for many people and income for the landowner and local communities.

## **Joint Government Operations and Government Organization**

### **ABC Audit**

Representatives from the legislative Auditors office released a report which said a lawyer and manager were wrongly paid \$83,000 in overtime at the West Virginia agency that regulates alcohol. The report stated that the attorney at the Alcohol Beverage Control Administration



received \$75,000 of that amount, between 2006 and this year. Federal law exempts both positions from overtime pay.

The other official oversaw the enforcement division and has since left the agency. That person was paid \$8,000 between 2008 and last year. Agency officials say they've stopped paying overtime to exempt staff.

The audit also found the agency was largely sticking with a process adopted in February 2007 to ensure fair and consistent penalties for violations by bars and other license holders. Ninety percent of the 432 violations reviewed by the agency since then have followed that penalty schedule.

## **Health Subcommittee A**

### **Eosinophilia**

A research scientist from Charleston Area Medical Center (CAMC) educated committee members on Eosinophilia with information on what it is, what causes it, symptoms, and treatment methods. The committee has been charged, under House Concurrent Resolution 109, with looking into the feasibility of requiring coverage for eosinophilic disorders.

Eosinophilia is a condition in which the eosinophil count in the peripheral blood exceeds 450 per microlitre. The normal absolute eosinophil count in adults is less than 400 cells per microlitre.

There are various degrees of Eosinophilia from mild,

which is 500 to 1,500 per microlitre, Moderate, which is 1,500 to 5,000 per microlitre, and Marked which is more than 5,000 per microlitre.

The research scientist told the committee that Eosinophils can both decrease inflammation and produce tissue damage. Tissue damage is caused when Eosinophils release major basic protein and interleukin 5.

There are two cause of eosinophilia; Primary Eosinophilia which has no obvious underlying cause, and Secondary Eosinophilia which is due to underlying disease or process. The research scientist stated that Secondary Eosinophilia is the most common cause.

Secondary causes of Eosinophilia include:

- Asthma
- Allergy to environmental agents such as grass, trees, mold, and dust
- Dermatitis such as eczema, psoriasis and urticaria
- Allergic Reaction to drugs such as aspirin, antibiotics and anti-inflammatory drugs
- Parasitic disease such as pork tapeworm, dog/cat tapeworm and hookworm. The most common parasite in West Virginia is Strongyloids
- Gastrointestinal Disorders
- Malignancy (Cancer)
- Hemodialysis
- Vasculitis
- Musculoskeletal disorders

The research scientist also discussed Primary Hypereosinophilia Disorders, which is the sporadic occurrence of striking eosinophilia in the absence of a disease that is associated with reactive eosinophilia. Main



symptoms include: poor appetite, weight loss, nausea, abdominal pain, diarrhea, cough, rash, fever, sweats, and blood clots in the lung or leg.

Signs of Primary Hypereosinophilia include:

- Heart damage
- nervous system problems
- enlarged liver and spleen
- Anemia
- Eosinophil count is always greater than 1,500 but not infrequently it is 50,000 or greater
- Proportion of patients will have cytogenetic abnormalities in the eosinophils

Those patients that have these signs are giving steroids or oral chemotherapy drugs. If it's genetic then they are given a targeted therapy called gleevec

The research scientist told the committee that doctors evaluate patients with eosinophilia by:

- Getting a history and physical examination
- Getting a blood count and evaluation of the blood smear
- Chest X-ray
- Bone marrow aspiration
- Cardiac ultrasound
- Stool check

Treating the underlying condition causing eosinophilia is the treatment of choice. Using steroids for those with hypereosinophilia syndrome is the best treatment option. Those with Chromosome 5 abnormality are given small doses of gleevec.

### **Hearing Aid Device Access**

The Director of Division of Infant, Child, and Adolescent Health addressed committee members on the need for providing hearing aids to children with hearing impairments.

According to the Director, the earlier a child gets a hearing aid device, the better their speech development will be. However, these hearing aids are quite expensive. Receiving assistance for these hearing aids is difficult because the federal government has yet to label the aids important to children.

There are some available services offered through West Virginia's Birth to 3 Program, Medicaid and CHIP. However, those children, whose parents make too much for these programs, do not receive these hearing aids. Even children with health insurance still have problems receiving hearing aids. It varies on their health insurance provider as to whether the devices are covered or not.

A program implemented in 2009, provides hearing aid services and supplies for children ages 3, 4, 5, or 6 years who lack insurance coverage for this benefit. Ineligible are children who have Medicaid or CHIP, or those children who have commercial coverage that includes this benefit. According to the programs website, a child who has permanent hearing loss is fully covered under this program if they are signed off by an audiologist. Approval for hearing aids is for children with an average sensory neural hearing loss of at least 30dB in the frequency range of 500-4000 Hz, documented by a licensed audiologist report.

The program has received 165 applications and is evenly



distributed. It costs the program \$2,500 per child and funding is running low. Once funding is gone, another funding source must be found in order to keep the program going.

## Select Committee on Infrastructure

### Turnpike Tolls

The executive director of the West Virginia Parkways and Economic Development Authority, told the committee that bonds taken out to pay for the construction and routine maintenance of the West Virginia Turnpike should be paid off by 2019, meaning the toll could be lifted, however pointed out the state would have to come up with some other way to fund operation and maintenance.

He told the committee that if the tolls were eliminated the Division of Highways would be forced to come up with funding for maintenance on one of the most heavily trafficked highways in the state. That \$82 million dollar loss would likely have to come from taxpayers.

But the southern part of the state is essentially paying a “double tax,” according to one lawmaker who told the committee that anyone who travels from Southern West Virginia north to Charleston must pay to use the road.

And businesses are growing tired of the toll as well according to the executive director of the Greater Bluefield Chamber of Commerce. He told the committee that the southernmost county, Bluefield, its citizens and its business community has probably been the most adversely affected by the Turnpike tolls over the years.

The executive director of Parkways said if the tolls were discontinued after 2019, the state would be hard pressed to find ways to fund the road. Tolls bring in \$82 million annually, but it costs more than that for maintenance and operation, in addition to funding payrolls for 355 full- and part-time employees who draw state benefits.

He said that 76 percent of all Turnpike revenue comes from out-of-state passenger cars and out-of-state commercial vehicles.

The executive director of Parkways had one suggestion for how to fund the road sans tolls but admitted it may not work. He suggested increasing the gas tax but mentioned that it seems to be a dying way to fund roads because cars are getting more fuel efficient.

However the lawmaker and the executive director of the chamber of commerce both stated they believe the tolls have served their original purpose to pay for the construction of the road and they need to be eliminated. Going forward, West Virginia and the rest of the nation needs to look at more modern, creative ways to fund highways.

## Judiciary Subcommittee A

### Legalization of Fireworks

Members of the judiciary subcommittee A met during the July interim meetings regarding the regulation and legalization of certain types of fireworks in West Virginia.

During the 2012 regular session a bill was introduced into the House that would have legalized Class C or



Common fireworks in West Virginia. Legislators decided to get more input during the interim sessions and then possibly address the issue during the 2013 session.

Class C fireworks consist of firecrackers, bottle rockets, roman candles, M-80s, cherry bombs and large, reloadable shells. You can buy those types of fireworks in West Virginia but it's illegal to set them off. What is considered legal in the state without a permit are sparklers, trick noisemakers, snakes and smoke bombs.

A state resident and a proponent of legalizing Class C fireworks here in West Virginia spoke to the committee and stated that if individuals using these specific types of fireworks read the instructions and used them carefully, there's no reason why the state shouldn't pass a law legalizing Common fireworks.

He presented a study conducted earlier this year which asked 50 people in a biker bar and 50 people at a church gathering how they felt about legalizing Class C fireworks. He says an overwhelming majority in both settings were in favor of the move. He also stated that legalization could bring in big money to West Virginia, with potentially 300 new jobs and an estimated \$900,00 in tax revenue.

However, the Deputy Chief of the West Virginia State Fire Marshal's Office stated that agency's opposition regarding legalizing Class C fireworks.

He related a story regarding an incident this past July 4th in Chester where illegal fireworks were being sold from a stand when several items accidentally were set alight. He says it could have killed people inside the structure, but luckily, no one was injured.

The committee made no decision. They'll take up the issue again in interims before the start of the next session.

## **Judiciary Subcommittee C**

### **DUI Process**

The committee heard from the West Virginia Department of Transportation, the West Virginia State Police and the Mingo County Prosecutor regarding DUI offenses.

The prosecutor told legislators the biggest change he's seen in impaired driving recently has been drivers taking prescription drugs, and those impairments are harder to test. He explained that unless a driver gives consent for a blood test, legal steps must be taken to test for drugs, and even then, hurdles remain.

He sighted complications from the fact that no one from the forensic laboratory operated by the West Virginia State Police can testify as to the effects of prescription drugs like they can alcohol. He said in southern West Virginia, drugged driving impairments outnumber alcohol impairments.

The executive director of the Prosecuting Attorney Institute, told lawmakers a toxicologist in the courtroom or a pharmacist would be the only way to get expert opinions on drug reactions in cases.

The prosecutor said he did not have a definitive solution, but finding something that could be an intermediate step to obtaining blood tests to test for drugged driving could work. He suggested something less time consuming and tedious than the legal steps but not as obtrusive as an



automatic consent similar to what drivers in Arizona consent to just by having drivers' licenses.

The deputy commissioner of the DMV told lawmakers that The West Virginia DMV revokes about 10,000 licenses per year. He took lawmakers through the process of DUI arrest and license revocation while driving home the point that the DMV's role is simply driving penalties and that they have no role whatsoever in fines, jail time or community service penalties that the courts hand out.

The chief hearing examiner at the West Virginia Department of Transportation, told lawmakers about the general changes that have taken place in DUI cases during the past few years.

## **Select Committee on Minority Issues**

### **Prison Overcrowding**

According to a Charleston minister, prison overcrowding translates into America's most difficult social and economic problem since slavery, and the war on drugs is driving this crisis. The senior pastor at Grace Bible Church, told the committee that the congestion can be resolved, and that too much time has been spent talking without taking action.

The minister noted that America makes up 5 percent of the global population but has 25 percent of the inmates. Partly due to the war on drugs, he said blacks and Latinos make up a disproportionate number in the criminal justice system.

The minister suggested action must be taken now, rather than continue studying the issue of crowded prisons and jails. He offered his opinion that the people in a position to do something about this crisis have been bogged down in a paralysis by analysis pattern and that they continue to "kick the can" down the road, leaving this problem for others to solve.

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

The minister said the growing ranks of juvenile offenders pose a silent part of the issue, since their cases aren't identifiable out of privacy laws.

"The valve to the pipeline is wide open and it's full of kids going into the direction of the prison system," he said. "Younger people are spending their young years in prison. They're marginalized from employment, job training and other federal benefits."

Ironically, he said, in West Virginia, the prison population keeps soaring while the crime rate is actually declining. One factor is the jailing of non-violent drug offenders, with a strong focus on the poor, even though most illegal





drug use occurs in working, middle-class neighborhoods, he said.

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

The minister said the prison problem cannot be solved easily, and it entails more than just merely sending fewer people behind bars or letting some there now out early. He believes the key is investing in work force development and job training, particularly for younger people but also for adults that need these opportunities.

On a separate note, the committee learned that the Governor’s office has narrowed a list of six applicants down to two for the job of Executive Director of the newly-created Herbert Henderson Office of Minority Affairs. They expect to fill the position soon.

**Parks, Recreation  
& Natural Resources Committee**

**Derecho Storm Damage**

Members heard about decisive action taken during the late June storm that left thousands without electricity to avoid a major trout disaster after hurricane-like winds swept through West Virginia’s hatcheries last month.

A representative from the Wildlife agency told the committee that only about 100 pounds of brood trout were lost after the storm. Trout require a constant flow of cold water and air to sustain life. When the power failed, the DNR shuddered at the prospect of sacrificing 300,000 trout to the storm.

Locals offered their own generators to keep things humming at Reed’s Creek Hatchery in Pendleton County, about 6 miles out of Franklin. Had the hatcheries been forced to shut down, it would have meant the loss of 750,000 pounds of trout ranging from 4 to 24 inches. In the final analysis, the loss was about 300 pounds.

Next, a representative from the Parks department told the committee the parks system suffered only minor injuries and moderate structural damage. Fallen trees damaged guest campers, boats and vehicles, a number of roofs, and other structures. The worst harm came to Watoga State Park in Pocahontas County and Greenbrier State Forest in Greenbrier County, since both were hit heavily by white pine, easily uprooted in strong winds.

Twenty-seven facilities were forced to close a day after the June 29 derecho, largely because of power failures, and loss of water and sewer service. Fifteen others stayed open and five were out of communications with the Division of Natural Resources (DNR).

One superintendent sent a report by mail. It got there before the DNR could reach him by telephone or e-mail. As of July 10, five areas were closed while 34 were fully opened and eight remained partially shut down. The longest closure was Hawks Nest in Fayette County, which didn’t re-open until July 10. The park system forfeited



\$503,521 in lost revenues and refunds, while another \$6,071 was lost in food inventory and storm-related labor accounted for another \$269,517 in expenses.

The DNR has turned the figures over to the Board of Risk and Insurance Management for possible compensation.

## **PEIA, Seniors & Long Term Care**

### **Silver Alert**

According to the West Virginia State Police, the Silver Alert system in place in the state, while typically used for missing persons reports in cases involving senior citizens, does not have an age limit.

Silver Alerts use a wide array of media outlets—such as commercial radio stations, television stations, and cable TV—to broadcast information about missing persons. Silver Alerts also use variable-message signs on roadways to alert motorists to be on the lookout for the missing person. In cases in which a missing person is believed to have gone missing on foot, Silver Alerts have used Reverse 911 or other emergency notification systems to notify nearby residents of the neighborhood surrounding the missing person’s last known location.

A state police officer told the committee that the alert system can be enacted for anybody that is cognitively impaired, regardless of age. According to state code, people with cognitive impairments, including deficiencies in short-term or long-term memory, orientation as to person, place or time, abstract reasoning or judgment as

it relates to safety are covered by the Silver Alert system. This includes autism and dementia.

The officer said people often wait 24 or 48 hours to report a missing person, although that law was abolished a few years ago. Now, people can report missing family members immediately.

The officer explained that unlike other jurisdictional crimes, any law enforcement officer in any jurisdiction can take a missing persons report. However, before law enforcement can issue a Silver Alert, the situation must meet seven criteria: the missing person must be cognitively impaired, the person must be believed to be missing and the missing persons report must be on file with law enforcement and entered in to NCIC. The person also must be believed to be endangered, be missing from West Virginia, be in an unknown location and unable to return to their home without assistance and law enforcement, and the person filing the report must believe the Silver Alert will help in locating the missing person.

Once a missing persons report is filed and entered into NCIC, the responding officer then contacts one of six communications stations. From there, the information is sent to one of six troop commanders who approves or disapproves the alert. Then it is forwarded to the local media.

The Silver Alert is relatively new, and the officer said the West Virginia State Police Academy is working with new cadets as well as veteran officers to educate them about the system.



## **Joint Standing Committee on Pensions and Retirement**

### **WVU’s Voluntary Separation Incentive Plan**

Having heard further from WVU’s Deputy General Counsel of the Vice President for Legal Affairs and General Counsel regarding West Virginia University’s voluntary retirement separation plan, lawmakers approved the proposal.

The Voluntary Separation Incentive Plan (VSIP) is not an open call severance package but is considered a strategic management of talent which requires the University to better plan its workforce efforts. It allows the University to accurately forecast the true financial impact before offering separation incentives to employees in positions that need to be eliminated to meet emerging programmatic needs, or due to the loss of funding such as a grant, according to the VSIP discussion points provided to the committee.

The University retains sole authority to determine when an offer should be made and the decision to accept the offer is completely voluntary on the part of the employee.

The idea is to have a flexibility requirement which is good for both employees and the University. The reporting requirements have legislative oversight and the annual detailed report will be derived by monitoring the plan on a monthly basis so that things are done in an even manner. The flexibility granted by the plan also is subject to legislative oversight.

According to the university general counsel, circumstances arise, departments reduce funding and

other issues come about that the university would to address with an incentive to move forward as opposed to offering other mechanisms. The school also does not believe the numbers of employees taking advantage of any offers would not be huge but lawmakers sought a roll of numbers in the coming months.

The plan requires estimates from the Consolidated Public Retirement Board (CPRB) and the Public Employee Insurance Agency (PEIA), when necessary, prior to the finalization of any offer to the employee; requires MoUs between CPRB/PEIA and the university so that all parties are fully aware of the process and expectations; and, the design of the plan allows the university to avoid a mass exodus of employees.

There are eligibility requirements and those employees who are separated from the university are not eligible. While the vice-presidents of perspective departments and the human resource director oversees the plan, the Board of Governors has reviewed and approved the plan. Lawmakers of the Jt. Committee on Pensions and Retirement moved and adopted approval for the separation incentive plan.

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

### **Agency Updates**

All three agency heads turned in their monthly reports to committee members during July’s interim meeting.



Committee members heavily questioned the Commissioner of the Division of Corrections on an attempted prison escape that occurred earlier in the month. According to the Commissioner, three convicted murderers left with their absence undetected for more than an hour as they tried to break out of West Virginia’s maximum security prison at Mount Olive. The would-be escapees cleared at least one interior fence during their attempt. But the commissioner stressed that the three inmates were located within about 15 minutes once they were discovered missing following an 11:30 p.m. head count.

Mount Olive and other Division of Corrections facilities in the state remain at full capacity, with around 6,900 inmates. These numbers mean that more than 1,800 convicted felons are serving at least part of their sentences in regional jails instead.

Another problem within the Division of Corrections is the overall staff turnover rate which was nearly 17 percent last year. The American Correctional Association says West Virginia ranks in the top 10 states for turnover and also suffers the nation’s worst inmate-to-guard ratio in prisons. West Virginia also has one of the lowest full-time salaries for correctional officers only beating Mississippi. The full time salary is below poverty level for a family of four. The escape attempt by the three inmates is currently under investigation.

## **Select Committee on Veterans’ Affairs**

### **WVU Law Veterans Assistance Project**

With a 35 year history, the Veterans Assistance Project of the WVU Clinical Law Program has proven to be an effective resource for veterans, a Steptoe & Johnson Professor of Law and Technology at the WVU College of Law told lawmakers, as well as an hands-on learning experience for law students who participate in the program.

Giving credit to returning veterans, those many years ago, who wanted to assist other veterans, the founding group turned to Veterans Affairs to develop a cooperative program. While hospitals had long worked with veterans, the clinical law program was the first in the nation to form a coop with a law school. Upon entering into an agreement, veterans were surveyed and interviews were conducted.

During the years, veterans have been represented in cases of bankruptcy, consumer affairs, domestic violence , landlord-tenant disputes, tax problems, and other civil matters. The cases are referred by the VA or a veteran can contact the clinic directly. Because law students are working under the supervision of law professors, cases which go to court are not part of the clinic program. Most are finalized with telephone calls and documentation since students are not practicing lawyers and also are restricted by an hour’s perimeter from Morgantown, home of WVU School of Law. Presently, the clinic is working with the Clarksburg Veterans’ hospital to expand that vicinity.

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The law professor reminded the committee the clinic's alumni includes lawmakers, legislative staff and other prominent lawyers. She noted the most important academic point is that the third-year law students have the opportunity to work professionally and reap the benefits of helping their fellow veterans with badly needed services in their communities. The clinic has a well developed office management system and cases which may last over a number of years are passed down. The professor noted no one falls through the cracks.

The future plan in a three to four year time frame is to move toward VA cases as an out-reach case. Again, the program is largely document development. If interest persists and there is client demand then we would have to reach a cooperative agreement, the law professor said.

**Huntington's Homeless Resource Center**

Also addressing the committee was the Coordinator of the Homeless Resource Center (VA assisted) in Huntington who shared his experience and the success of the center's second annual Homeless Veterans Ride 2012 with the legislative Veterans' Committee.

The Huntington to Washington, DC ride took 6 days and covered 425 miles climbing 24,000 feet. Eight bicyclists left on June 23 and arrived in DC on the 28th raising over \$27,000 for the center which serves as a one-stop under one roof for homeless vets.

WE rode to raise money for HRC...it takes all services provided and puts them under one roof for homeless vets. Even though the VA appropriates some money for the center, the donated funds will go for homestarter kits, bathroom kits, month long bus passes, air mattresses,

gas cards, vacuums, microwaves, money for meal cards at the Veterans' hospital when waiting for doctors, food gift cards, prescription co-pays and work shoes, among many, many other needed supplies.

The coordinator hopes to make this an annual event, he told lawmakers and believes the fundraiser is an obligation since waves of vets will be returning from Afghanistan with invisible and visible injuries.

The resource center has been in operation for a year and the program is still evolving. Programs provided deal with substance abuse, employment issues , among other critical issues. The center focuses on not only helping the homeless but treating them as well.

**Veterans Treatment Courts**

Closing the meeting was the Director of Mental Hygiene and Mental Health Court Services and Administrative Counsel, WV Supreme Court of Appeals with a follow up on her June presentation on the West Virginia Supreme Court of Appeals' implementation of veterans treatment courts in West Virginia.

According to the counsel, the mental health veterans treatment courts are another type of adult treatment court. It hears cases regarding people who have criminal justice issues usually caused by an underlying issue, such as mental illness or a traumatic brain injury. The court is fashioned like a mental health court which seeks underlying causes and provides treatment. The court also goes beyond those needs and looks into education needs and community stabilization. Usually the courts have low level crimes and efforts are made to get people



before them stabilized and back in the community instead of getting them through the justice system, the director told lawmakers.

**Interim Committee Meetings  
2012/ 2013**

July	23 - 25, 2012
August	13 - 15, 2012
September	10 - 12, 2012
October	8 - 10, 2012
November	26 - 28, 2012
December	10 - 12, 2012
January	7 - 9, 2013
February	10 - 12, 2013



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