

# Interim Highlights

## Education Subcommittee A - Public Education

Members of the committee heard from the creator of high-performance classrooms - alternatives to the modular classrooms used at many schools across the state - during its September interim meeting. He told lawmakers that Next Generation Structures (NGS), a company located in Charleston, could help with many of the problems facing schools utilizing modular classrooms to accommodate growing numbers of students.

Designed to be permanent or mobile, with a 50-year life expectancy, the classrooms can be designed and built into any shape or size and can be disassembled and reconfigured to meet changing needs and address overcrowding issues. This is possible because of their removable concrete foundations and inter-locking panel design, which also allows them to be designed and assembled within just 10 days, he said.

In addition, the speaker told the committee that high-performance classrooms are constructed of low-maintenance materials. The wall panels are insulated, which allows the building to be energy efficient, and the cement siding resists harsh weather conditions and is resistant to cracking and rotting. The windows also are energy efficient and durable, while the metal roofing, which is solar-reflective, may never need to be replaced. The classrooms also feature write-on/wipe-off inside wall coverings.

In addition to their structural advantages, he told lawmakers that the classrooms address many of the concerns teachers have regarding learning environments. Many educators believe that key elements to high student performance include lighting, indoor air quality, noise and temperature. The speaker said these nontraditional classrooms minimize harsh lighting, indoor pollutants and outside sounds, while allowing teachers to maintain control of the inside temperature.

The classrooms diffuse outdoor and indoor lighting by using a daylighting system, which in addition to addressing high-energy costs also facilitates student performance. Each classroom's glare-free lighting is achieved by incorporating daylight and electric light. According to the NGS Web site, "a 1999 study found that students who had diffused daylight throughout the room with teachers controlling of the amount of daylight entering the room improved 19-20 percent faster than those without quality daylighting."



All of these positives come at a heftier price tag than traditional portable classrooms, which cost around \$60 per square foot. High-performance classrooms, he said, cost around \$90 per square foot. The speaker said that with new issues counties will be facing regarding Pre-K classrooms, he would like the opportunity to build a prototype school for West Virginia. One committee member suggested that he speak to the School Board Association to help move this idea forward.

Lawmakers were told that NGS has designed and built classrooms for other states, including North Carolina and Nevada. In addition, the speaker said that the high-performance technologies used to build these portable classrooms also could be applied to conventional classrooms.

## Education Subcommittee B - No Child Left Behind

Continuing in their commitment to review the various aspects of No Child Left Behind (NCLB) and its impact on West Virginia's school system, members of the subcommittee received a presentation regarding the cost of NCLB in the state from a representative of Augenblick, Palaich and Associates (APA), a Denver-based consulting firm that works with state policymakers on education financing issues.

According to information provided, APA reviewed and summarized major studies prior to March 2004 on the cost of NCLB. It was concluded that the studies varied significantly and, therefore could not be compared or serve as a guide for how to cost out a state's NCLB effort. For the study of

West Virginia, APA focused on the costs related to NCLB using two definitions:

“NCLB Compliance: What costs are associated with implementing the new programs of NCLB including assessment, accountability teacher quality and data management as well as the administration of NCLB programs through 2007-08?” and,

“Help students meet specific performance targets: What costs are associated with activities that should be taken to help students meet performance expectations (and avoiding the negative consequences of NCLB) for 2011?”

The ongoing costs of NCLB compliance are estimated through 2007-08, while the ongoing costs of meeting proficiency targets are estimated through 2010-11. The study process includes seven components: standards and assessments; accountability; NCLB related assistance; choice and supplemental education services; high quality educators; NCLB data management; and federal title programs.

The representative said APA provided state and local data collection templates and will continue providing follow-up assistance to state and local staff on completing the templates. Lawmakers were told that a state agency data collection effort is currently underway in West Virginia. In addition, local district representatives received training in August of this year to begin the district-level analysis. Completed templates are due to APA on October 13, with the study completion date set for December 10.

### Education Subcommittee C - School Aid Formula

The Bureau of Business and Economic Research from West Virginia University presented a project report analysis of West Virginia taxes levied. The report stated that West Virginia taxes are levied on each \$100 of assessed valuation of each class of property.

They provided a comparison of actual taxes levied with the taxes that would have been levied if the 1 percent maximum tax revenue limit were not put into place. In 1991, legislation was passed that set a maximum of a 1 percent annual allowable increase for property tax revenue. This required county commissions and municipalities to reduce their levy rate proportionately for all four classes of property to produce no more than 101 percent of the previous year's projected tax revenue.

The committee was provided with a detailed statistical comparison that included the assessed property values by county, taxes levied on classified assessment valuations by class and tax rate changes by county, among others.

### Equal Pay Commission

Members of the Equal Pay Commission approved the final recommendation for the FY 2007 distribution of equity pay. It will go into effect November 1, 2006. A representative from the Division of Personnel presented the Commission with the final numbers, which were compiled in conjunction with the State Budget Office. Overall, 1,745 state employees will be affected from the recommendation at a general revenue cost of \$576,360. In addition, the Division of Personnel representative noted that the state agencies involved in the recommendation would have to provide approximately \$3,700 to cover the cost of benefits.

### Finance Subcommittee C

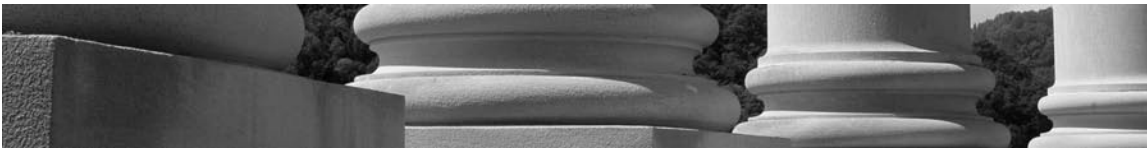
During the Subcommittee's July meeting, lawmakers requested the West Virginia Division of Highways (DOH) to provide detailed information on the Department of Transportation's six-year plan, which was devised to coordinate and carry out various highway project across the state.

In the September meeting, the DOH Commissioner appeared before the committee to provide this requested information. He said in 2005, there were 170 highway projects included in the plan, but not nearly enough funding to carry them out. Consulting firms were used to prioritize the list of projects by using certain determining factors, including economics, traffic flow, safety, the environment and planning.

According to the Commissioner, alternative funding sources need to be identified in order to complete the important projects. He said using the current funding system, which relies on gasoline and privilege taxes, it would take more than 150 years to complete all 170 projects. With alternative funding streams needed, the committee will use its meetings in upcoming months to further delve into the large amount of information they were provided and to hear from the four consulting firms that ranked the highway projects.

### Forest Management Review Commission

The committee members heard a report detailing and updating members on the Division of Forestry, Forest Legacy Program. Congress established the Forest Legacy Program in 1990 through amendments to the Cooperative Forestry Assistance Act that directed the Secretary of Agriculture to initiate the program through the U.S. Forest Service and its



cooperators to conserve environmentally important forest areas threatened by conversion to non-forest uses. This authority is to continue indefinitely, although it depends on annual Congressional appropriations.

In West Virginia, the Division of Forestry has the regulatory authority for the program through the State Code and appointment of the Governor. It has contracted for "An Assessment of Need" that includes the delineation of distinct "Forest Legacy Areas". The USDA has approved this, so the Program is now operable.

The purpose of the program is to ascertain and protect environmentally important forest areas that are threatened by conversion to non-forest uses. It serves to protect the traditional, riparian, recreational, wildlife, scenic and cultural values of the state forests. Eligible lands must have significant environmental value or are threatened by present or future conversion to non-forest uses.

The mechanism of conservation is the purchase in fee of a conservation easement in the Forest Legacy Areas from willing sellers at fair market price as established by a standardized appraisal. A conservation easement is a legal agreement (deed) through which a property owner sells or donates their rights to development or other activities on their land. The owner then retains all of the rights not sold. Consequently, the land will continue as a working forest producing products. The Forest Legacy Program is a 75:25 matching program between the government and private sources. The West Virginia Division of Forestry will hold the deed to conservation easements in the West Virginia Program.

**Government Organization Subcommittee A**

During September Interims, members heard a discussion of Senate Concurrent Resolution 76, which requests the Joint Committee on Government and Finance study titling and branding of certain damaged vehicles.

The committee heard a presentation regarding a state survey provided by the West Virginia Insurance Federation on salvage vehicle/total loss definitions.

In defining total loss, 11 states use a percentage of damage ranging from 50 percent for total loss to 80 percent for total loss. Eight states use a percentage with another factor, for instance, West Virginia excludes cosmetic damage and Louisiana excludes hail damage.

Twenty-six states use a subjective determination that includes

economically unreparable or beyond reasonable repair, repairs exceeding fair market value or a combination of both. Several states use insurer or insurer and owner to determine whether the car is a total loss. Six other states do not define "total loss". The committee will continue to examine titling of damaged vehicles.

**Government Organization Subcommittee B**

The committee continued its discussion of Senate Concurrent Resolution 72, which requests the Joint Committee on Government and Finance study sunrise and sunset legislative processes.

Staff counsel provided a review of selected state approaches to professional regulation as well as some criticisms regarding the process of regulation. The function of regulation is to define the scope of practice, specify credentials and enforce standards of practice for the different types of regulation whether by licensure, certification or registration. The purpose behind this type of regulation is to protect the public by ensuring the expertise to make informed choices is adequately provided and to prevent incompetent practice, which may cause harm.

States use sunrise review policies to regulate only if necessary to meet a public need and in the least restrictive means possible. The criteria used for a sunrise review is that there is potential harm to public health, safety and welfare and the public needs and will benefit from the assurance of competence. Some model states use to oversee the sunrise process include autonomous state boards, semi-autonomous boards with a central agency oversight and agency regulation with advisory boards.

Some options for West Virginia to consider should the state decide to tinker with the sunrise review process would be to review sunrise applications only upon request, change timelines for the review process, make sunrise proponents apply directly to legislative committees or review the criteria required for a sunrise review. Other options would include staying the course with the current process or repeal the process all together.

**Insurance Availability  
& Medical Malpractice Insurance Committee**

Committee members convened to hear from speakers representing the Trial Lawyers Association regarding the impact of legislation that eliminated third-party bad faith lawsuits. The

first attorney said that prior to the passage of this legislation, the insurance industry was seeing high earnings and now, with these third-party lawsuits no longer an option, he believes the industry has shifted the risk to consumers by “coercing” the Legislature to remove this choice for consumers.

He said consumers now face a longer process and often forego medical treatment until their cases are heard. He maintained that the administrative process for these claims does not compel action by the insurance industry. The speaker presented draft legislation to the committee that would, among other provisions, reinstate third-party lawsuits for consumers. He requested the committee to make the recommendations included in the draft bill to the full Legislature.

Other attorneys speaking during the meeting brought clients, one of whom was involved in a car accident through no fault of his own; however, the insurance company representing the other driver offered what he considered to be an unfair amount of money. The company eventually offered more money for the car, but refused to pay for a rental car or the costs for storing the damaged vehicle. His attorney said that since this case occurred prior to the new law, it was resolved; however, without the right to go to court, he might have been forced to accept what the company was originally offering.

### Joint Commission on Economic Development, Joint Standing Committee on Education & Joint Committee on Technology

During the September interim meetings, a representative of the West Virginia High Technology Consortium (WVHTC) Foundation appeared before certain committees to explain and demonstrate this program, which was developed in West Virginia to assist the Amber Alert program.

Emphasizing the need for both programs, he first provided lawmakers with some troubling statistics. According to his information, 800,000 children are reported missing each year nationwide. Seventy-four percent of abducted children who are murdered lose their lives in the first three hours of abduction, with 40 percent being murdered in the first hour.

Created by the WVHTC, the AmberView program - the only one of its kind in the continental United States - is capable of providing quick response during an abduction or disappearance, but parents must first get involved. Through their child’s school, they can voluntarily take advantage of the advanced software that maintains information on their child that is updated annually.

Cost-free to the parents, the program transforms the child’s school photographs into a three-dimensional image. In the event of abduction or disappearance, this image, along with up-to-date biographical information on the child provided by the parents, is sent immediately to law enforcement and all other appropriate authorities, broadcast on television and posted on the AmberView Web site.

Parents will be able to participate in the program this year after receiving a parental consent form from their child’s school. Once consent is given, two extra photographs will be shot when the child’s school pictures are taken. For those children who aren’t in school yet or who missed the photographs, the Regional Education Service Agencies (RESAs) around the state hold picture days for enrollment in AmberView.

The representative said parents can rest assured the information obtained on their children is secure. All images and bios are maintained in a secure database, which is only accessible by the State Amber Alert Coordinator. Law enforcement has access only in emergencies. Additionally, parents may request to remove their children from enrollment in the program at any time.

AmberView is presently being funded by a grant from the United States Department of Labor, allowing these services to be free to parents. To ensure this remains the case in future years, committee members were told that the Legislature might be needed to help identify the funding necessary to keep the program going.

The speaker said five Amber Alerts have been issued in West Virginia, all of which have resulted in the child’s safe return; however, pictures and bios were not broadcast in any of these cases. The speaker also said parents often-times are unable to agree on an accurate description of their child - not because they don’t know their child or are bad parents, but because the stress of the situation affects their ability to respond quickly and precisely. In 95 percent of cases, he said, parents cannot agree on a description of their child.

With AmberView, pressure can be taken off the parents in their difficult time, while law officials and the media are notified with accurate visual and biographical information within minutes of an official Amber Alert.

Addressing AmberView’s future, the representative said he hopes to propagate the system nationwide and also help apply the technology to other projects of national significance. He said medical experts have viewed the software and are optimistic that it might be able to assist in certain procedures, such as reconstructive facial surgery.

The Executive Director of the West Virginia Development Office also spoke to the Joint Commission on Economic Development regarding the status of the Economic Development Grant Committee's projects. He provided a list of the 47 projects, 19 of which are complete; 10 of which should be complete by the end of the year; and 18 of which are to be complete after that time. There is a December 31, 2007 deadline for all projects to have their funding and contracts in place. Of the original \$224 million, \$159 million has been dispersed to date.

### Joint Legislative Oversight Commission on State Water Resources

As requested from the July interim meeting, staff counsel provided a comparison of the state water planning programs from the following states: Kentucky, Maryland, Pennsylvania, Virginia, Georgia, Missouri, New Jersey and North Carolina. Each of the eight states has statutory provisions that require a state agency to prepare a state water plan. Counsel provided a summary of each state's plan and noted the legislation may delineate the components of the plan or provide only general guidance as to the plan's contents. The Commission discussed West Virginia's options for a water-planning program and emphasized that a plan must be put in place in order to protect and conserve water resources for future use.

The Commission heard a second presentation by counsel regarding the history of the ownership of the Ohio River. An overview of the history showed how several legal cases have ultimately given ownership of the Ohio River to West Virginia. The presentation ended by raising questions about the future of West Virginia's ownership of the river.

### Joint Standing Committee on Finance

With lawmakers looking to fill the gaps left in the coming budget concerning highway dollars, lawmakers requested the West Virginia Division of Highways (DOH) to provide detailed information on the Department of Transportation's six-year plan, which is devised to coordinate and carry out various highway project across the state.

In this September meeting, the DOH Commissioner appeared before the committee to provide this requested information. He said in 2005, there were 170 highway projects included in the plan, but not nearly enough funding to carry them out. Consulting firms were used to prioritize the list of projects by using certain determining factors, including economics, traffic flow, safety, the environment and planning.

The Governor has frozen, by Executive Order, the state's gasoline tax percentage following Hurricane Katrina's devastation in the oil fields of the Gulf. This freeze, at .038 per gallon, reduced incoming State Road Fund dollars by \$52 million, thereby reducing the state's ability to maintain our existing highways.

According to the Commissioner, alternative funding sources need to be identified in order to complete the important projects. He said using the current funding system, which relies on gasoline and privilege taxes, it would take more than 150 years to complete all 170 projects. With alternative funding streams needed, the committee will use its meetings in upcoming months to further delve into the large amount of information they were provided and to hear from the four consulting firms that ranked the highway projects.

The State Highway Engineer also provided information regarding the county highways' funding formula. Several factors are entered into the equation of determining how much each county receives based on needs. Although a supplemental appropriation bill, passed during the First Special Session of 2006, provided \$11 million to be divided evenly among the state's 10 highway districts, the dollars were to be used specifically for brush control, litter pick-up and shoulder and pavement repair.

Lawmakers requested that factors such as weather conditions be put into the formula as well as "local knowledge" provided by highway personnel throughout the state. Too, legislators would like to see the bidding process for blacktopping be made fair for small contractors. However the highway engineer said the competitive bidding process on the open market oftentimes includes bids in "bundles" which allows for a lower cost.

### Joint Standing Committee on Finance & Joint Standing Committee on the Judiciary

Members serving on both committees met for a comprehensive presentation from the Insurance Commission on the workers' compensation rate level revisions for July 2006. Lawmakers were told the Insurance Commissioner designated the National Council on Compensation Insurance (NCCI) as the statistical rating organization on behalf of West Virginia employers in October 2005. It is the largest information company serving the workers' compensation community in the United States, serving just less than 40 states.

Among various charges, the NCCI collects and analyzes data submitted by carriers; develops rate and advisory cost filings,

which went into effect on July 1, 2006 in West Virginia; and produces individual employer experience ratings, which will begin in July 2007 for West Virginia. The NCCI also offers a dispute resolution process, through which employers may challenge the way premiums were determined.

In July, the NCCI set the overall loss cost level based on West Virginia experience and current law and, based on its analysis, the Insurance Commission approved a reduction of 10.5 percent. The most significant change, one representative said, was the movement of the 94 West Virginia industry codes, which lumped many employers into the same classifications, to 478 NCCI classes. According to information provided, the majority of businesses saw a reduction in their loss costs, and the majority of employers are now paying premiums in a timely manner.

### Joint Standing Committee on the Judiciary

Divorced fathers from throughout West Virginia attended the Joint Standing Committee on the Judiciary to provide the membership their perspectives of West Virginia's custody laws.

Speaking on their behalf were representatives of West Virginia's Chapter of Men Against Discrimination (MAD) as well as the Director of the American Coalition for Fathers and Children. The spokesmen noted that divorced fathers are not pleased with existing laws of custody but are hesitant to complain, believing the courts' nature is to give preference to women overall.

To express their significant concern of fathers being absent from the child-rearing equation, presenters distributed numbers provided by the National Center for Health Statistics covering West Virginia's 2005 January through May divorce rate. The high percentage for that brief period of time indicated a divorce rate of 94.6 percent, according to the Center's calculations.

Social ills for children that result from a father's absence include a lean toward committing crimes, gang membership, drug and alcohol abuse, teenage suicide and runaways, according to their statistics.

Following their presentation, the groups requested the legislative committee to review the concept of "shared parenting" in which the court would recognize both parents equally. Too, the concept allows parents to set their own visitation plans. The men believe if the divorcing couple can agree to work together and craft a mutual plan, then the courts should not

interfere with changes. However, if the couple cannot draft a proposal, then the courts should intervene.

Other areas the groups would like to have reviewed are a 50-50 shared plan if salaries are equal, mandatory consequences for visitation denial, mandatory consequences for false allegations, open family courts, a cessation of paternity fraud as well as forced fatherhood, among other areas.

Overall, the committee will continue its study in the coming months.

### Joint Standing Committee on Pensions & Retirement

The Executive Director of the Consolidated Public Retirement Board presented the Committee with an update of merger litigation concerning the Teachers' Defined Contribution Plan (TDC) and the Teachers' Retirement System (TRS). The Committee was informed that an order was filed with the presiding judge to ask that the merger pass as the Legislature approved it with the exception of two dates. The Executive Director informed TDC members by letter that any future orders would be posted on the Consolidated Public Retirement Board's website.

The impact of litigation on pension costs was also presented to the Committee. Scenarios of the impact on pension costs during litigation, the impact of pension costs if litigation results in "no merger" occurring, and the impact of pension costs if litigation settled and the merger would eventually take place were represented.

The Director of the Office of Fiscal Policy for the State Tax Department presented the Committee with personal income tax treatment of pension income. Pension modifications were the focus of the presentation. It was noted that there was \$3.2 billion of Federal Adjusted Gross Income in 2004. In the same year, West Virginia had approximately \$150 million in personal income tax revenue. After describing the modifications, the Director concluded that private sector and most public sector retirees were generally treated in an equitable manner at age 65 or older.

During the second meeting of the Committee for the September interim, the Deputy Treasurer for the State Treasurer's Office provided the Committee with information on the funding of the Municipal Policeman's and Fireman's Pension and Relief Funds. The Deputy Treasurer shared projections with the Committee based on July 1, 2004 actuarial evaluations. A consultant and actuary firm that oversees this fund compiled the projections.

Members discussed incentives to encourage cities to pay down their unfunded liabilities. After discussion, the members requested that the Deputy Treasurer provide the members at next month's meeting with projections showing the amount of money it would take to bring all the cities to 80% funded.

### Judiciary Subcommittee C

Members of Judiciary Subcommittee C were briefed on the relationship of gift certificate regulation with unclaimed property by an attorney with the State Treasurer's Office. The attorney stated that \$65 billion worth of gift certificates were sold in the United States last year. In an effort to revise the Unclaimed Property Act, SB 285 was introduced during the 2006 Regular Session. This bill would have allowed agencies to obtain property for delinquent debts, enabled E-bay sales, and would have streamlined the claims process. Ultimately, SB 285 did not pass and it may have been due to the gift certificate provision. SB 780 was then drafted and attempted to address the gift certificate provision. It also failed to pass. The attorney went on to state that West Virginia had \$38 million in unspent gift certificates last year. According to the Unclaimed Property Act, unspent gift certificates are to be reported after three years. However, only 60% of the total amount of the gift certificate is returned to the merchant.

While West Virginia does not currently regulate gift certificates, 31 states do. Most of the states require that merchants notify customers of the terms and conditions of the gift certificates. The State Treasurer noted that a possible solution to the gift certificate situation would be to eliminate expiration dates and dormancy charges.

Following the gift certificate discussion, the State Treasurer gave a brief presentation regarding the operation of the Treasurer's Office. Since 1994, the State Treasurer's Office has paid \$70 million for claimed property, has put \$30 million into the state's General Revenue Fund and has put \$4.5 million into the College Saving Plan.

Committee counsel then gave a presentation regarding Senate Concurrent Resolution 22, which requests the Legislature to study the feasibility and possible legal ramifications of restricting lawyer advertising. Counsel presented the members with recommendations from the West Virginia Bar Association's Lawyer Advertising Commission regarding the Rules of Professional Conduct for legal advertising. After examining the issue from many perspectives, the Commission concluded that although most lawyers who advertise do so responsibly, there is a need for further regulation.

Counsel described in detail to the members what constitutes permissible and prohibited forms of advertising, as well as advertising requirements, according to the recommendations. For a comparison, counsel then presented members with the Kentucky Bar Association's legal advertising rules, which are governed by the Kentucky Supreme Court.

### LOCEA

The first of two planned meetings of this committee centered around the Higher Education Policy Commission (HEPC) report on an overview of "Measuring Up 2006" and any implications it may hold for West Virginia Higher Education.

A representative for HEPC stated that the program provides a systems approach to higher education. First, it measures preparation by seeing how well K-12 systems prepare students for college-level education and training. Second, it addresses the opportunity for state residents to enroll in higher education. Third, the program measures whether students and families can afford higher education, given current economic circumstances and levels of financial aid. Fourth, it addresses whether students continue through their educational program to earn degrees. Finally, it examines the economic and societal benefits that states receive as a result of having a well-educated workforce.

In examining "Measuring Up 2006", HEPC found that the report provides policymakers with an objective set of information to assess the relative health of their systems of higher education. Also, policymakers must examine educational issues from a macro, rather than micro level. Disproportionate attention has historically been given to institutional rather than statewide needs and issues. Also, the era of institution building has come to an end and a new set of policy questions must be developed. The central concern for states should be whether their residents are able to participate in a system of education that provides opportunities to obtain the benefits that accrue to those with higher learning.

The second meeting began with the Superintendent of the West Virginia Board of Education presenting the Commission with an updated report of the Board's activities. The Superintendent made brief comments on several topics. Two of the topics were national board certification and alternative education pilot programs. He noted that there are currently 200 applicants in the state applying for national teaching certification and that four high schools - Riverside, Pocahontas, Woodrow Wilson and Philip Barbour - were participating in the alternative education pilot programs.



Following the Superintendent's comments, members discussed cross county line student transfers. There was question as to how school boards were dealing financially with this situation. It was noted that §18-9a-4 was adopted into Code to provide additional funding to the counties to allow for the transfers.

Discussion also centered on teacher shortages and the lack of proper certification courses available in West Virginia. To address this problem, a program was developed to encourage teachers to attain more education. Operated by Workforce Investment, the program offers to pay teachers while receiving additional education.

### LOCHHRA

During the Legislative Oversight Commission on Health and Human Resources Accountability's (LOCHHRA) first meeting of the September interims, lawmakers continued reviewing the Money Follows the Person (MFP) concept, which provides consumers with more choice by allowing health care funds to follow individuals from institutional care to community- or home-based care. Lawmakers heard from the National Conference of State Legislatures' Health Group Director, who provided a national perspective on MFP.

She said the federal government has set aside \$1.75 billion, which will be awarded this Fall and applied next year, for states to carry out the MFP initiative. This money, she said, will cover one year of care in eligible patients' homes or communities. Currently, nine states have established pilot programs.

Texas received a federal grant and passed legislation for its MFP program and, according to a recent study, community-based care in that state cost 20 percent less than facility care. This program transferred approximately 2,500 people per year for about five years in Texas, which has more than 60,000 people living in nursing homes. According to the spokeswoman, some of the challenges seen in the Texas program included finding appropriate housing and transportation for the qualified participants.

She also told the committee that more than 30 states, including West Virginia, have received grant money for nursing facility transition, which is another way to move qualified individuals out of institutional care. A representative of West Virginia University's Center for Excellence in Disabilities, which has studied this program, discussed the experience of assisting West Virginia's nursing home residents in moving back into their communities.

They worked with about 250 families and had 76 transitions and 64 diversions. She said the average patient who was able to move back home, to a group home or to another community setting has been between age 40 and 64 and usually has spent between one and three years in a nursing home because of serious illness or brain injury. Through this program, long-term care residents were involved in the decision-making process, allowing for more person-centered planning.

During the panel's second meeting of the September interims, what initially was planned to be an open discussion on the state's Aged and Disabled Waiver Program between lawmakers and officials with the Department of Health and Human Resources (DHHR) turned into a program of unanswered questions. The WV Medicaid Aged and Disabled Waiver (AD) program allows aged and/or disabled people to manage their own care through a "cash and counseling" program, hiring their own assistants and continuing to live in their communities.

In mid-November of 2005, tougher eligibility requirements established by the federal Medicaid Title XIX Waiver program began to jeopardize existing waiver recipients who were being removed from in-home care services. Too, in an attempt to reduce a \$156 million Medicaid deficit, upon the direction of the Governor's administration, the Department of Health and Human Resources (DHHR) was in the process of cutting \$115.7 million out of the Medicaid budget. As such, hundreds of people were taken off the program and left to fend for themselves. Seeking to halt the dismissal process, a lawsuit against the DHHR was filed on behalf of those misplaced persons. The suit was awaiting a hearing scheduled in the Kanawha County Circuit Court.

With the thought of some of our most vulnerable citizens being dropped by in-home care providers, legislators were exceedingly interested in hearing from the DHHR during the September interim studies on the Aged/Disabled Program. Coming armed with questions covering a variety of questionable areas within the program, lawmakers were limited to minimal inquiries by legal rules associated with the pending lawsuit. Questions to DHHR officials were as simple as how many aged individuals were denied in-home care, how many hearing requests were there from people removed from the program and how much money has been paid to the West Virginia Medical Institute (WVMI) for doing "independent assessments" of individuals' eligibility for in-home care, as is required by federal mandates.

However, with the suit awaiting its hearing, DHHR officials were advised by counsel to be cautious in their responses should they somehow affect the pending court case.



As of Thursday, Sept. 21, the Governor's administration agreed to settle the lawsuit. Those hundreds of people who were kicked off the program will immediately be put back on.

### Legislative Oversight Commission on Workforce Investment for Economic Development

The Director of WORKFORCE West Virginia addressed lawmakers regarding continuing statewide efforts to train workforces for various industries. He said there is a great demand for workers in technical fields and the office is presently working with community colleges to train people for the skills needed to gain jobs in these fields. Specifically, the office is focusing on promoting skills that are transferable - primarily technical skills.

He also said West Virginia's community and technical colleges have joined forces with the oil and gas industry, with a recent orientation in Braxton County for a training program. The Director told lawmakers that in the previous week, the office had received more than 600 inquiries regarding the orientation.

Regarding future plans, he said the office would like to contact alumni who have moved out of the state regarding employment opportunities in West Virginia. Coal mining needs are on the forefront, he said, and the office would like to see more training beyond "red hat" training.

The Director of the Region IV Workforce Investment Board (WIB) then spoke briefly about employment needs in the coal industry. She said her office has found that coal companies have varying needs and through mining job fairs, the WIB has been able to gauge what companies are seeking. She also noted that machinist training is set to begin in October.

The Chancellor of the West Virginia Community & Technical College System then introduced a representative from the Academy for Mine Training, who said the Academy is working with West Virginia University's Mine Extension and the Coal Association. In addition, Southern West Virginia Community & Technical College has been working with coal companies, as well as other companies, in the area to assess their needs.

Since January, he said the Academy has trained 220 entry-level miners through its program. In addition, a director for the Academy has been appointed, as they continue working to locate and secure a site for hands-on training.

### October Interim Schedule

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

### Select Committee A - Children, Juveniles, Other Issues

Select Committee A met to focus on accessible parking issues. Committee counsel reviewed prior legislation that was considered during the 2005 and 2006 Regular Sessions. The following bills were reviewed: HB 2170 (allowing parking fees to be charged for handicapped parking spaces under certain circumstances); HB 2771 (increasing the fine for a first offense misdemeanor conviction of illegally parking in an accessible parking space); HB 4556 (relating to the enforcement of accessible parking spaces for motorists with mobility impairments); HB 4681 (allowing parking fees to be charged for accessible (handicapped) parking spaces under certain circumstances). Each of the bills failed to pass during either session.

Following Counsel's review of the bills, the West Virginia Americans with Disabilities Act (ADA) Coordinator gave a presentation. The coordinator discussed issues with accessible parking enforcement and factors contributing to the abuse of accessible parking. The factors included were: people using permits illegally, people with and without legal permits parking in access aisles, businesses having inappropriately marked or no accessible parking spaces, doctors giving permits to people who really do not need them, police forces unwilling (or they think they unable) to enforce the law on private parking lots such as shopping centers and grocery stores. The coordinator noted that the abuse of accessible parking is not unique to West Virginia but virtually a problem in all states.

The coordinator went on to talk about possible solutions to prevent these abuses. The solutions suggested were: marking access aisles not only with diagonal stripes, but also with "no parking" and as a tow away zone; no free accessible parking; holding businesses accountable to have the appropriate number of accessible parking spaces; better educating doctors about who does and does not qualify for accessible parking permits; more oversight to ensure doctors are complying with the standards as set by law; making it clear that police can issue tickets on private parking lots open to the public such as shopping centers and grocery stores; allow private security guards and parking personnel to issue tickets; educating police and parking officials about what to look for to help to determine if someone has parked illegally and the correct question(s) to ask.

Following the presentation, committee members discussed other possible solutions to prevent the abuse of accessible parking spaces. For example, a program was suggested that involved citizens taking time and date stamped pictures of vehicles that were illegally parked in accessible parking

spaces and turning them into law enforcement. There was also discussion over confusion on when illegal parking can be enforced. Counsel for the Committee suggested that the city ordinance would make the determination.

### Select Committee C - Infrastructure

Members of this committee met to hear a discussion regarding an update of the Tower Access Assistance Fund Review Committee (TAAFRC).

A representative for TAAFRC stated that it created as a result of House Bill 3208, passed by the West Virginia Legislature during the 2005 regular session that became effective July 2005. The legislation designated \$1 million per year for TAAFRC, which is funded by the wireless enhanced 911 fee, a \$3 monthly surcharge assessed to all cell phone customers in West Virginia. The West Virginia Public Service Commission (WVPSC) is the designated agency to review Tower Access grant applications and administer the funds.

The representative explained that the purpose of TAAFRC is to provide grant money to counties so that they can in turn partner with entities to build towers and expand wireless service, specifically with regard to 911 access. The review committee is made up of nine members who meet on the last Tuesday of each month.

The representative said that the committee received seven grant applications in the first round, which were due June 2006. This includes applications from: Boone County, Cabell County, Lincoln County, Mercer County (2), Randolph County and Roane County. The representative stated that TAAFRC recommended approval for the Boone County project and both Mercer County projects, as well as requested the Lincoln County project reapply and ask for expedited approval. The two Mercer County projects have already received checks, and the Boone County check is currently being processed. The Cabell, Randolph and Roane County applications all had some deficiencies but are all certainly eligible to reapply.

Also, because the legislation became effective in July 2005, the fee was collected for only half of the calendar year; therefore, only \$500,000 in grant funds were available to disperse during the first round of applications. TAAFRC is currently accepting applications for the next round in which the full \$1 million dollars will be available to disperse. All 55 counties in West Virginia are eligible to apply for these funds. The deadline for the next round of applications is November 15, 2006.

Next, members heard a presentation from a representative of the Community Connect Foundation, to speak to the committee regarding the organization's mission and programs.

The speaker said the Community Connect Foundation is a recently established non-profit organization. The mission of the Community Connect Foundation is to support the development and adoption of technologies that promote community development and sustainability with a focus on three core areas: education and outreach, analysis of supply and demand, and strategic planning and funding.

The Community Connect Foundation aims to bring stakeholders to the table in order to maximize the broadband coverage provided to the people of West Virginia. The Community Connect Foundation is modeled after the nationally recognized Connect Kentucky program, but has been adapted to address the specific needs of West Virginia. The Community Connect Foundation got started with a generous monetary gift from the Benedum Foundation.

The representative said the objective of education and outreach is to increase awareness and adoption of technologies that promote usage of broadband applications. In addition, the speaker noted that the Community Connect Foundation will be hosting the first annual West Virginia Connectivity Conference October 2-3, 2006, in Charleston to promote these programs.

Also, the speaker said the objective of the supply and demand analysis is to identify service gaps and aggregate public/private sector demand. For example, the Coal Connect Program is a partnership between the Community Connect Foundation and the West Virginia Coal Association, as well as coal operators and companies, to create post-mine use land strategies that would include erecting new towers.

Finally, the speaker said the objective of planning and funding is to establish a clearinghouse of public and private broadband technology projects, as well as resources necessary to better identify opportunities for collaboration, adding that this is at the crux of what the organization is all about. The speaker said the Community Connect Foundation hopes to help facilitate the creation of a statewide broadband policy and noted that the provider communities have been very receptive to helping the foundation meet its goals.





## 2006 - 2007

### Interim Committee Meeting Dates

September 11 - 13

October 15 - 17

November 13 - 15

December 10 - 12

January 7 - 9, 2007

*Note: All dates are subject to change.*

### October Interim Schedule

Please visit West Virginia Legislature's Web site:

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

## The West Virginia Legislature's Office of Reference & Information

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

Charlene Glagola  
**Director**

Drew Ross  
**Deputy Director**

Dee Spelock  
**Resource Manager**

Joe Mercial  
**Public Information Officer**

Randy Cain  
Dave Martin  
**Webmasters**

John Tice  
**Graphic Designer**

Martin Valent  
**Photographer**

### Bill Status

For bill history information and full bill text of all Legislation from the 2006 Regular Session, please go to the West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Bill Status" link.

### Interim Committee Information

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