



# INTERIM HIGHLIGHTS

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

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## Joint Health, Finance, Education, Judiciary and Government Organization Committees

### Affordable Care Act Informational Briefing

Lawmakers from five joint standing committees heard an hour long briefing in December from staff from the Governor's Office and the West Virginia Insurance Commissioners Office regarding the state's options for a health insurance exchange.

The Governor's Chief of Staff Rob Alsop said under the Affordable Care Act, an insurance exchange will be set up in West Virginia by Oct. 1, 2013, but the state has the choice to decide whether or not to take part.

He said the state has three options. The first is to let the federal government do everything, but Alsop said the governor's office is concerned about turning everything over to offices in other cities and states. The second option is for the state to do everything related to the insurance exchange itself, which could be problematic for the small Mountain State, especially if few people sign up for the exchange at the beginning. If that happened it could make health insurance more expensive than it needs to be. Finally, the third option, a middle approach, would be a partnership so West Virginia could maintain some of its regulatory authority but still take advantage of some economies of scale that would come from allowing the federal government to run things, such as IT functions.

Lawmakers received a 25-page handout and slide-show which provided brief explanations of everything from

how the individual mandate and employer coverage will work to the pros and cons of all three options related to the exchange.

Jeremiah Samples from the Insurance Commissioner's Office said West Virginia has already done work with multiple state agencies and engaged other states, as well as analyzed the feasibility of the exchange. He said the health benefit exchange will not operate a health insurance plan, carry risk or process claims, eliminating the role of insurance agents or set premiums. He said exchange-eligible individuals will be lawful state residents of all incomes who are younger than age 64 and are not incarcerated.

He said state's tentative plan for 2014 is to proceed with the partnership plan, because a state-based exchange would put too much of a fiscal burden on consumers, industry and the state, while a full federal exchange would put too much of a regulatory burden on consumers and the industry.

They also said state officials will continue to meet with stakeholders and continue analyzing some economic models as well as look at ways to lower the cost and increase the quality of care.

## Agriculture and Agri-Business

### Aquaculture Industry - November

West Virginia's fledgling aquaculture industry has tremendous potential and no operation typifies this



better than a Raleigh County one according to Deputy Agriculture Commissioner Steve Miller.

Blessed with cold, clean water, Miller believes West Virginia could reap some dramatic benefits in the future by raising fish. Miller pointed to Mountaineer Trout, a setup just below Sophia, and launched at an abandoned coal mine site more than a decade ago. In that operation, clean water flows at a rate of up to 1,200 gallons a minute, and is about 55 degrees, conducive to raising trout, Miller said. Upwards of half a million pounds of fish are produced there annually, he noted.

Overall, the aquaculture business reflects an output of between \$2 million and \$3 million a year, the deputy agriculture commissioner said. Miller said one hurdle was cleared three years ago when the Legislature agreed to consider fish manure no different than waste materials excreted by farm animals. Two years ago, the Legislature enacted a law that declared the fishing industry as agriculture and designated his department as the lead agency, Miller said. Another outgrowth was the creation of an advisory board that meets monthly.

Miller said another key development came when a distinction was made between wild fish that thrive in streams and are governed by the DNR exclusively, and commercial fish such as those produced by the Sophia.

One key need, however, is a processor. Many of these local operations do an excellent job of raising fish but are not experts in the processing department.

Several lawmakers expressed a desire to develop the potential of this industry and the committee pledge to

continue to look at was to make the aquaculture industry more widespread and more efficient.

## **Children, Juveniles & Other Issues, Select Committee**

### **Industrial Home for Youth - November**

Lawmakers learned of several disturbing and repressive policies currently taking place at the West Virginia Industrial Home for Youth including including confining the inmates to their cells for long periods of time, using solitary confinement as punishment, leaving bathroom and shower breaks up to staff's discretion, requiring residents to wear prison uniforms, limiting contact with families and limiting educational and physical exercise opportunities.

A judge might decide before the end of the year to order a phased shutdown of West Virginia's only high-security juvenile facility, based on findings that the center runs like an adult prison and fails to rehabilitate the children it houses.

Paul DeMuro, an out-of-state juvenile-justice consultant that Mountain State Justice hired to study Salem, said the architecture of the facility -- poorly lit cellblocks with tiny windows, steel doors, tables bolted to cement floors, and individual segregation cells -- creates a "culture of control" that systematically fails to help the kids learn to function in society.

DeMuro said it would be cost prohibitive for the state to modify the center to create an environment more conducive to rehabilitation, and recommended that the



state assess the needs of each individual child and work to relocate them.

Juvenile services officials have been working with Mountain State Justice to reform certain practices at the facility.

DeMuro, in his audit of the facility, suggested that the state move toward community corrections programs, or foster-care programs geared toward children with behavioral disorders. DeMuro said his findings are based on a study released last year by the Annie E. Casey Foundation, which said juvenile facilities have 72 percent recidivism rates and waste billions of taxpayer dollars every year.

The study highlights six alternatives to the traditional system, including systems that focus heavily on individual therapy and replacing large juvenile prisons with smaller regional prisons for violent offenders.

**LOCEA**

**Chief Human Resources Officers (CHRO) - November**

Mr. Marshall Campbell, Director of Human Resources at Concord University spoke to committee members in November about the important role human resources officers have at the state universities.

Mr. Campbell became the CHRO at Concord University in 2009. Before he was hired, Concord did not have a human resources director from 2003 to 2009. It wasn't until the new university administration came to the

university that there was seen a need to have a CHRO who works with the faculty and other staff in a way that they deserve.

Under Senate Bill 330, passed during the 2011 regular session, made changes to the classification system of some higher education employees. This bill allows some issues CHROs face to be worked out. Senate Bill 330 also called for there to be established a Vice Chancellor of Human Resources, which the search is still ongoing. It will take whoever is hired at least six months to understand the system.

One area of concern for CHROs is the non-classified employee ratio. CHROs would like to see a formula in the rule for how institutions should count them in order to assure that all higher education institutions are playing on an equal level playing field.

**Rules**

The committee moved Policy 135-20, the initial authorization of degree-granting institutions. Also moved for further consideration was Policy 135-52, the Annual Reauthorization of Degree-Granting Institutions. Both are legislative rules.

The Higher Education Policy Commission (HEPC) Chancellor, Paul Hill, presented his report to the committee.

In his report was the focus of campus safety policies and procedures that are in place at all higher education institutions in West Virginia.



A memo was sent out to all institutions to provide the HEPC with their policies and procedures in order to possibly form more coordinated emergency procedures at all institutions. Material from these institutions will be provided at a future meeting.

Chancellor Hill also included findings from a financial aid survey that was sent to 40,000 on the students' financial aid experience. The HEPC received feedback from 2,600 individuals with the general consensus being a pleasant experience. Those individuals who reported problems with their financial aid experience were personally contacted by the HEPC in order to help them with the difficulties they encountered.

Lastly, Chancellor Hill, along with Community and Technical College System (CTCS) Chancellor Jim Skidmore, provided an annual rules review, all of which have been certified and available online.

**Human Resource Review Findings**

- Tenure, central offices, and WVnet researched
- Went to each of the 22 locations
- Met with various HR representatives
- 75 people interviewed for part of the onsite interview
- 2 full days spent at Marshall and wvu
- Partnered with a law firm for a compliance and legal review
- “Up to eyeballs in this research”
- In assessment, our conclusion system in need of intervention
- What’s been seen is people with vested views

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**Education Subcommittee A**

**Concussions in School Sports - November**

During November’s committee members heard from the West Virginia Secondary Schools Athletic Commission (SSAC) Executive Director, Gary Ray, on the number of concussions that have been reported during school sports events this year.

According to Mr. Ray, this year is the first time the WVSSAC has implemented collection procedures on the number of players who have suffered concussions. To date, which all the data is not in yet, about 200 students who played high school football this season reported suffering signs and symptoms of a concussion. That number is out of a total of 5,425 players in the state.

Aside from football, 12 female high school soccer players reported the signs or symptoms of a concussion this year. That is out of a total of 1,639 players throughout the state. There have been seven male high school soccer players who have reported these signs and symptoms this year as well. Also reporting signs and symptoms of a concussion this year were four cheerleaders and two volleyball players.

The WVSSAC has been offering an online education course about the signs and symptoms of a concussion. So far, 1,200 people have taken the course, 956 of those being coaches who are required to take it.

The data collected will be shared with the WVSSAC Sports Medicine Committee and also the National Association of High Schools. It is the hope that this data will help in writing rules for all sports in implementing more safety measures that will help prevent concussions.



Committee members also heard from the Executive Director of the Board of Risk and Insurance Management (BRIM), Chuck Jones, regarding liability coverage for volunteer physicians and athletic trainers who are on hand to help school athletes when injury occurs.

According to Mr. Jones, BRIM provides two policies that protect these volunteers. The primary policy allows for up to \$1 million per occurrence with no group limit. The second is an excess policy for county boards of education that allows for an additional \$5 million with no aggregate.

**Draft Legislation - December**

Committee Counsel reviewed with members two pieces of draft legislation Education Subcommittee A has been working on during December’s meeting.

The first proposed bill would cap the amount a volunteer team physician or other medical personnel who provided medical care at an athletic event can be sued at the maximum limit of the doctor’s medical liability insurance coverage.

This bill would also allow team physicians to be covered by a county school board’s liability policy through the state’s Board of Risk and Insurance Management (BRIM). This is in addition to their private malpractice insurance. Doctors who happen to be at a sporting event would not have this coverage if they chose to help an athlete.

Current state Code states that physicians must sign an agreement with the school if they would like to be able to render emergency aid at a sporting event. This proposed bill would eliminate this.

Committee members voiced their opinions and fears of this proposed bill presented to them is still too vague and leaves doctors with too much legal liability. The bill was seen as being too vague and would hinder many doctors from rendering care at a sporting event.

The bill will be worked on further and updated before January’s interim meeting by the committee staff.

The second draft bill presented to the committee related to interscholastic athletes’ concussions and head injuries. The bill is similar to Senate Bill 340 that was introduced during the 2012 Regular Session. It would require the West Virginia Secondary School Activities Commission to propose legislative rules concerning the management of concussions and head injuries in youth sports. This bill will also be tweaked before January’s meeting.

**Education Subcommittee B**

**Education Efficiency Audit Response - November**

State Board of Education President Wade Linger was on hand to present committee members of Education Subcommittee B with the Board’s response to the Education Efficiency Audit that was released earlier this year during November’s interim meeting.

The Education Efficiency Audit itself found that West Virginia has one of the country’s most inflexible and bureaucrat-heavy school systems. The audit also lists numerous recommendations to help repair the inefficiencies found within the system.



Mr. Linger told the committee that the BOE agrees with all but 10 of the recommendations brought forth in the audit.

One of the recommendations the Board feels strongly about is downsizing the state’s Department of Education in order to remove the overly bureaucratic feel currently placed on the system.

The board would also like to improve the teacher evaluation system, allow principals more control of funding and hiring and firing, emphasize individual learning with technology, and collaborate with career and technical centers in order to provide more options for the state’s at-risk students.

Mr. Linger also told the committee that some of the changes the board would like to put in place required legislative changes and therefore he asked for the Legislature’s help in making some policy changes.

Committee members, however, told Mr. Linger that the board’s response and ideas are very vague and needs to be more transparent regarding what it wants in regards to policy changes.

## **Education Subcommittee C**

### **Harassment in Schools - November**

Education Subcommittee C focused on HCR 130/SCR 95, which requests the Legislature to study whether the state’s laws regulating harassment in schools provide the constitutionally required safeguards to student expression, during November’s interim meeting.

New policy, which went into effect in July, prohibits bullying based on 13 categories. Under this, teachers can punish students who use vulgar or offensive speech that disrupts learning in school.

However, Jeremy Dys, President of the Family Policy Council of West Virginia, told committee members that teachers should not have the authority to determine what is and isn’t offensive speech especially since the new policy does not define what “offensive speech” is. Dys also told lawmakers that this policy also violates students’ and teachers’ rights under the First Amendment.

Dys told lawmakers that the current policy is not being applied equally and fairly and hopes that lawmakers will look into changing it so that it is.

### **Out-of-State Placement - December**

Committee members heard from the Department of Education’s Office of Special Programs Executive Director, Patricia Homberg, regarding the impact of out-of-state placement of special education students on the county school systems.

The out-of-state placement of special education students is an interagency agreement between the West Virginia Department of Education (WVDE) and the West Virginia Department of Health and Human Resources (WVDHHR) that was signed first in 1991 and then again in 1993. This agreement outlined the financial responsibilities each agency had for special education students placed in out-of-state facilities by the courts. The WVDHHR, in the agreement, pays for the residential and education cost for students who have not been identified as requiring special education services



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prior to their out-of-state placement while the WVDE pays the residential cost for students who have been identified as requiring special education services prior to their out-of-state placement.

On September 6, 2012, the WVDHHR and WVDE signed an updated agreement. Issues addressed in the new agreement include the following:

- Involvement of a county special education representative and a county DHHR representative in the Multidisciplinary Treatment Team (MDT), the out-of-state facility and other representatives between the two agencies in developing the Individualized Education Program (IEP) and developing a plan to transition students back to a West Virginia county school system
- Development of an effective Interagency Consolidated Monitoring System of Out-of-State Residential facilities for both general and special education students in order to assure an appropriate education is provided through the out-of-state facility where a West Virginia student has been placed
- Development of a joint monitoring schedule with the WVDE and the WVDHHR for the 2012-2013 school year
- There have been some concerns regarding the billing of local education agencies when a portion of the cost of educating out-of-state special education students was initiated in 2009-2010 and continued in 2010-2011. The following was decided:
- The portion of educational cost considered to be for regular education services, which is 60 percent, would be paid from Special Education State Allocation appropriation provided by the state Legislature, which

is \$2.65 million

- The remaining balance of the cost (40%) would be paid from federal funds.
- The WVDE has also established a system for a portion of the costs billed to county school districts to be recovered through two existing funding sources which are:
  - State Aid of \$4,200 on average per student who has a disability and is placed in an out-of-state facility by the courts.
  - High Cost/High Acuity for students with disabilities placed in out-of-state facilities through the courts. Estimated amount that could be recovered is \$8,434
- The Commissioner for the Bureau of Children and Families also addressed the committee regarding out-of-state placements and how the facility is chosen that the child will be sent to. He told the committee that a 50 mile radius rule is used when placing these children which means that the Bureau tries to find a facility that has the special programs the student needs while also being within 50 miles of their home and community.
- Various committee members asked a similar question regarding the feasibility of West Virginia opening these types of specialty placements. The Commissioner's worry and concern with this is the fact that many of these children need such specialized care that it would be difficult to create a facility of that magnitude. With these needs being specialized there is a risk that the facility would never be used to its full capacity.

**Interim Committee Information**

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# **Outcomes-Based Funding Models in Higher Education**

## **Final Report Draft - November**

During November’s interim meeting, committee members of Outcomes-Based Funding Models in Higher Education began tweaking their final report that sets up a plan for outcome-based funding for higher education in West Virginia.

The committee was created under Senate Bill 436, passed during the 2012 regular session, which was assigned the task of studying outcomes-based funding models and to provide recommendations about how to balance the needs of higher education institutions.

Helping the committee has been Senior Associate of HCM Strategists, Jimmy Clarke, and also other stakeholders that would be affected by this issue.

Adopted by the committee was setting the goal of seeing an additional 20,000 college degrees obtained in the state by the year 2018.

Also established in the committees report is the framework for a timeline in the implementation of outcomes-based funding.

Stakeholders, which include President’s from the state’s universities, requested that a distinction between the two year and four year colleges be made also to allocate 25 percent of the state’s current higher education funding to outcome-based funding by fiscal year 2019.

The committee will continue to tweak the report during the December and January interim meetings in order to

move the report into draft legislation before the 2013 regular session, which begins February 13.

## **Finance Subcommittee A**

### **Severance Tax Update - November**

Deputy Revenue Secretary Mark Muchow briefed the committee about projected trends in state severance tax collections, while noting that West Virginia’s economy will likely struggle through 2015 due to an energy transition away from coal toward cheaper natural gas.

With coal production down 10 percent this year and expected to decline further, state budget officials are looking toward growth in the natural gas sector to make up for coal’s decline. Muchow said the state economy as a whole could hit a rough patch during the transition from one resource to another. This will all lead to lower severance tax collections.

State severance tax collections, which helped fortify the state budget during the recent recession, are already down \$45.6 million this fiscal year. Muchow noted that the decrease in severance taxes is greater than he predicted and that is occurring in both coal and natural gas severance taxes.

Coal severance tax collections are down 22 percent compared to last year. Natural gas collections are down 36 percent.

Muchow said weak global economic growth, decreased domestic coal demand and low natural gas prices are all contributing to the decline. While natural gas production



is up about 25 percent this year, the price has dropped from around \$4 per million BTUs in 2011 to around \$2 today.

The natural gas severance tax is calculated from the sale price, therefore lower prices mean lower tax revenue. Muchow noted that even though natural gas production is increasing, the decrease in price is more than offsetting the actual production.

Officials expect prices will rebound by 2014. Muchow said a rebound and continued increases in natural gas production would be key in helping to offset a predicted decline in state coal production, He noted that the U.S. Energy Information Administration projects 8.5 percent of U.S. coal-fired power plant capacity is expected to retire by 2016.

Given that coal makes up about 85 percent of the state's mining economy, Muchow said the gains in natural gas production will have to far outpace the loss of coal production in order to maintain severance tax collections. Muchow explained that for every 10 percent decrease in coal, the state would need a 60 percent increase in natural gas in order to offset that and keep output of severance taxes about the same.

West Virginia brought in nearly \$468 million in severance taxes from coal, natural gas and other industries during the last fiscal year. About \$58 million came from the natural gas sector, while \$410 million came from coal and timber.

Officials project severance tax collections will fall slightly in the 2013 and 2014 fiscal years, before rebounding back

to 2012 levels by 2015 due to increased natural gas tax collections. By 2017, natural gas is expected to make up a nearly \$130 million share of state severance taxes, while coal and other industries will make up a \$347 million share.

## **Health Subcommittee B**

### **Adoption - November**

Nancy Exline, Deputy Commissioner for Department of Health and Human Resources Field Operations Bureau for Children and Families was on hand at November's interim meeting to talk about adoption in West Virginia. According to Ms. Exline, each child who is in the custody of the state and is eligible to be adopted is assigned to an adoption specialist who will handle their case throughout the process. West Virginia has an adoption unit in each of the four regions in the state. There are a total of 34 specialists and four supervisors. The starting salary of a specialist is \$26,160. There are currently two vacant spots in regions two and four. There are, as of this month's meeting, 870 cases assigned to all adoption units.

For the 2011 fiscal year, there were 696 children adopted. That number rose to 724 adoptions for fiscal year 2012. Next to address the committee were two adoption supervisors who walked the committee through the lengthy process a child is put through before they can be adopted which takes about six to nine months after the termination of parental rights.

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**Infrastructure**

**Corridor H - November**

The committee heard from Walter Lusching from the Panama Canal Authority, Greg Edwards, director of external affairs for the Virginia Port Authority, and Steve Foster, chairman of the Corridor H Authority. According to the presenters, global trade could be coming even closer to West Virginia with the completion of Corridor H and a widened Panama Canal.

Foster said local business is already feeling the effects of construction on the highway, and right now timber operators and manufacturers are keeping the highway busy.

Lusching said the Panama Canal, built in 1914, was built to last 100 years, but Asian container ships have become too large to pass through it. A project to enlarge the canal will bring those Asian ships to the Eastern Seaboard. Lusching showed lawmakers several maps depicting international trade routes, and Edwards spoke about the local impact.

Right now, the only port deep enough for the Asian container ships on the East Coast is Norfolk. Edwards said East Coast ports are currently in a “very favorable” position for companies because two-thirds of the American population still resides east of the Mississippi River.

“That population still needs fed, clothed and entertained,” Edwards said.

He named several companies within 100 miles of ZIP code 25302 that are actively engaged in international

trade, such as Toyota Motor Manufacturing, NGK, Diamond Electric, Alcan Aluminum and Rubberlite.

Edwards said Virginia is excited for Corridor H to be completed, because the only way Norfolk can grow and expand as a port is by reaching out.

Edwards also explained that both the Savannah, Ga., and Charleston, S.C., ports will need dredged to remain competitive with bigger ships.

He mentioned that as Savannah and Charleston seek dredging money and permits, it seems increasingly unlikely in his estimation, that both will be funded up to standard. Virginia’s port in Norfolk however is ready now.

**Judiciary Subcommittee A**

**Copper Theft - November**

Lawmakers briefed in November on the impact of a bill designed to minimize copper theft in West Virginia and were told it’s still too early to tell if a new state law that went into effect earlier this year is having an impact on the theft of copper.

Lawmakers approved Senate Bill 212 during the 2012 regular session and it went into effect June 1. It makes theft of copper and the disruption of communication and public utility services a misdemeanor for the first offense, a felony for the second.

Captain Bill Scott with the West Virginia State Police told the committee that it seemed to be working. He said they



had received lot of the feedback so far but much of it was saying it is still early yet.

Preliminary figures from the State Police show that during the first quarter of the year, when the law was not in effect, troopers made 50 arrests for copper theft. The second quarter, when the law went into effect, it dropped to 35 arrests. During the third quarter, 21 arrests were made.

What's made it more difficult to track the theft of copper wire, according to Sammy Gray with Public Utility Services, has been the aftermath of the June 29th derecho. Tens of thousands of lines went down during the storm making easy pickings for thieves. He said thieves realized when the lines are on the ground there usually is no power on it. Trees are across and they can see it's broken. Quite a bit of line, especially in southern West Virginia, was stolen while it was on the ground.

However, he is seeing a change in the way thieves target copper. Traditionally, copper thieves target substations where they go cut the grounds. As they're being replaced with different materials that don't have copper, they're focusing more on the lines. In some cases thieves are cutting trees that will fall into the lines and bring them down. Then they wait for them to lose power before stripping the copper and getting away. He believes once the thieves are caught red-handed causing these types of disruptions, it could make a major impact on others thinking of doing something similar.

Both Captain Scott and Gray say members of the West Virginia Recycler's Association have been of great help, calling authorities when they suspect someone has

brought in wire that was stolen and they also feel this law will act as more of a deterrent once a few people are prosecuted. They asked the legislature for more time before the penalties are upped to see if the new law makes a difference.

**Magistrate Numbers - December**

Magistrates in Raleigh and three other West Virginia counties wrestle with a higher average of cases, but only Monongalia is earmarked for an extra one in a pending bill being studied by the committee.

Based on figures compiled for the past three years, Monongalia County ranks fifth in the number of cases magistrates were assigned to handle, Senate counsel Kevin Baker told the committee. If a new one is approved there, Monongalia County would have five magistrates.

Raleigh County in that three-year span ranked third in the average caseload, or 3,504 per magistrate. Within that time frame, magistrates in the Beckley-based region dealt with an average of 17,521 cases.

Berkeley County was first with an average caseload of 3,731, while Kanawha County was second, at 3,547, and Wood was fourth, with an average of 3,248.

Lawmakers questioned whether population of the area or caseload should be the criteria when adding magistrates.

The three-year caseload average in Kanawha County was 35,470, spread among 10 magistrates. Cabell's average was 18,753, or 2,679 per each of the seven magistrates.



Magistrates are paid on a two-tiered basis, based on population. The highest are paid \$57,500, while those in smaller counties get \$51,175.

If the West Virginia University student body is figured into the mix, the county's population jumps by 29,000. This appear to be the major justification for adding a magistrate in Monongalia County.

### **Judiciary Subcommittee B**

#### **Marshall University Forensic Science Center - November**

Members of Judiciary B Subcommittee toured the Forensic Science Center at Marshall University in Huntington during November's interim meeting.

Marshall University's Forensic Science Center is one of only a handful of institutions in the country whose forensic sciences programs are accredited. Since accepting its first class of forensic science students in 1995, the Forensic Science Center has grown not only in size but also in their reputation.

The first phase of the building of the center was in 1995 when the old Marshall University Fairfield Stadium locker room was renovated. The building was transformed into a state-of-the-art human identification DNA laboratory. In 2009, a three-story annex was opened. This building holds offices as well as the digital forensics laboratory, a Bioscience incubator, and classrooms. This building is still relatively new and remains a work in progress.

The center itself has two components; the master's degree

program in forensic science and the other as a working research and testing laboratories. From an entirely academic standpoint, the center has been long accredited but has recently received a second accreditation in digital forensics, which makes it the first academic program in the country to receive this sort of accreditation. As working research and testing laboratories, the Forensic Science Center's work extends outside the borders of West Virginia. Law enforcement agencies from other states have reached out to the center for help. One agency looking for help was the New Orleans Police Department who had an extensive backlog of more than 800 untested sexual assault kits. Hurricane Katrina left the department's evidence room and DNA lab submerged in water. Marshall's Forensic Science Center stepped in to help. So far, the work done has resulted in two rape convictions and with other cases still preparing to go to trial. Other agencies looking for help from the center include the Los Angeles Police Department and law enforcement in Miami Dade Florida and Charleston, South Carolina. Most of the help requested by Miami Dade and Charleston South Carolina are property crimes. Aside from helping out state agencies, the Forensic Science Center works with the West Virginia medical examiner and the West Virginia State Police.

Committee members were able to tour both the DNA laboratories and also the new digital forensics laboratories during today's visit.

While touring the DNA laboratories, committee members inquired as to whether students ran the lab. A representative with the center wanted to make it clear that no students operated the labs or did any testing. That was a requirement before receiving certification to



be used as a certified testing center by the FBI. The only instances in which students even enter the laboratories are if they are graduate assistants to perform such tasks as making sure the refrigerators are working properly. The representative told committee members that one of the most often made assumptions about the center is that it is solely an institution of learning. What is not known is that the center is a certified testing center where the results from these laboratories are used in cases.

State Police Cpl. Robert J. Boggs discussed the center’s newer digital forensics and how it is helping the State police catch individuals who are committing Internet crimes against children in the state. Boggs told the committee that these resources allows the state police to track those individuals who are exploiting children over the web and arrest them before more harm can come to those children. Approximately 60 percent of the digital forensics case work involves child exploitation. When asked by lawmakers what kind of help the Legislature could give to law enforcement and the center policy wise, what would it be. A representative with the state police told the members that the biggest challenge the state police face is that of “sexting.” This is a topic that is not completely understood by those teenagers committing the crime and law enforcement as to how to handle the topic.

Further information on Marshall University’s Forensic Science Center can be found on the center’s website at [www.forsenics.marshall.edu](http://www.forsenics.marshall.edu).

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## **Minority Issues**

### **Foreclosures - November**

West Virginia boasted the highest rate of home ownership for years, and that still holds true even after the 2008 economic recession.

The state weathered the economic storm better than most other states and that is evident in the low number of foreclosures in recent years, according to Erica Bogges, acting executive director of the West Virginia Housing Development Fund. Since 2007, the state has seen 16,661 foreclosures, with most of those foreclosures occurred in Berkeley (3,229), Kanawha (1,592), Jefferson (1,438), Wood (912), Cabell (866) and Raleigh (693) counties.

Bogges told a legislative interim committee that the Washington, D.C., housing market could be one reason why the foreclosure rate is so high in the Eastern Panhandle.

Bogges said one reason why West Virginia’s foreclosure rate is low could be because state homeowners never experienced a housing bubble like the rest of the country did. According to the Housing Development Fund’s report, slightly less than 4.5 percent of loans are in the process of foreclosure nationally, while West Virginia’s rate remains steady about 2 percent. Slightly more than 1.5 percent of loans from the Housing Development Fund are in the process of foreclosure.

Stephen Fisher, deputy director of program operations for the Housing Development Fund, pointed out not as many West Virginia homeowners fell victim to sub-prime mortgage schemes that affected much of the country.



2009 saw the highest number of foreclosures in recent years at 3,419. However, 2010 saw 51 fewer, foreclosures in 2011 dropped to 2,901 and foreclosures between January and September 2012 number 2,100, a 28 percent drop from 2011.

The West Virginia Housing Development fund lends primarily to individuals or families with incomes of \$20,000 to \$50,000. The average loan is about \$95,000, though they can go as low as \$40,000 and as high as \$120,000.

**Parks and Recreation Subcommittee**

**Hunting Accident/Exotic Pets - December**

Lawmakers in December heard a reports regarding incident rates while hunting that stated they have decreased dramatically since the West Virginia Division of Natural Resources (DNR) mandated a hunter’s safety course in 1990.

Lieutenant Tim Coleman from DNR aid from 2003-2012, 74 of the 241 total hunting incidents that occurred were tree stand-related. But 2012 had more tree stand-related incidents than any other year, with 12.

He also said there have been 24 accidents in 2012, everything from a heart attack to one man in Lincoln County who died of a drug overdose while he was hunting. He said there were four incidents of someone shooting someone else. He said that when he started 34 years ago there were 56 accidents, so hunter education has really done its job.

Coleman said the DNR noticed more reports of tree stand falls about 10 years ago and added a unit to the hunter education course to address it. He said that while homemade tree stands are pretty much gone, what they do see more of is equipment failure typically because the owner hasn’t kept up with his routine maintenance.

Lawmakers also heard from DNR Assistant Chief of Game Management Paul Johansen, who spoke about a potential bill his agency is in support of to ban and regulate exotic animals in West Virginia. A similar bill passed the full Legislature last year, but Gov. Earl Ray Tomblin vetoed it. He pointed out the need for regulation with the recent incident last year in Zanesville, Ohio, when 50 large exotic animals including tigers were set loose. West Virginia currently has no enforcement, no penalties and no destruction orders.

He proposed a dangerous and exotic animal control board composed of the heads of the Department of Agriculture, the Bureau for Public Health and the Division of Natural Resources.

He also suggested compiling a list of prohibited animal species, but allowing individuals who possess those animals to be “grandfathered in,” so they could keep their animals but register them, post bonds for them and abide by certain safety requirements. He also said they are proposing allowing certain exemptions such as for circuses or companion animals under ADA requirements.

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



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

### **In-Home Care Options, Financial Exploitation - November**

Robert Roswall, Commissioner of the West Virginia Bureau of Senior Services addressed the committee regarding in-home care options for seniors. The Lighthouse program is designed to assist those seniors who have functional needs in their homes, but whose income or assets disqualify them for Medicaid services. The Lighthouse Program, available in each county, is funded entirely by state monies and provides support in four areas: personal care, mobility, nutrition, and housekeeping.

An individual may receive up to sixty hours of service per month, based on a client assessment and resources available. To participate in the program one must be at least 60 of age and meet the functional eligibility need. Lighthouse has a sliding scale fee reimbursement in place.

The FAIR Program, available in every county of West Virginia, offers relief to family caregivers and, at the same time, provides one-on-one attention and individualized activities for persons with a written diagnosis of Alzheimer’s disease or a related dementia.

FAIR gives caregivers the time to do things most of us take for granted—run errands, keep appointments, visit family and friends, shop for groceries, or even take a nap. FAIR clients (family caregivers) can receive up to sixteen hours of respite per week, based on need and availability of hours and trained staff. The fee for FAIR services depends on the income of the person with dementia.

These programs are funded by the state’s four racetracks along with the Greenbrier Casino.

Chris Hedges, head of the West Virginia Financial Exploitation task force spoke to the committee about his charge to help seniors and other vulnerable adults to avoid financial exploitation.

Criminals exploit seniors in multiple ways including, slowly bleeding their bank accounts, changing their wills, selling their property out from under them, maxing out their credit cards, identity theft and changing their medical power of attorney, among others.

Hedges estimates seniors in the U.S. are losing \$2.6 billion annually from exploitation. The task force is not an agency or a committee but a group of professionals that meets quarterly to deal with this issue. They work on prevention, education for families and they take steps to make the justice available to victims. The West Virginia Banker’s Association has begun training tellers on what to look for and who to contact regarding financial exploitation.

## **Regional Jail and Correctional Facility Authority, Legislative Oversight Committee**

### **Agency Update - November**

Regional Jail Authority Executive Director Joe DeLong the committee in November that the authority is not obligated under its regulations to provide 15 days of severance pay to employees terminated for gross misconduct.

The policy was debated last month, after the authority provided William Roy Wilson, a correctional officer at



the Southern Regional Jail, with \$3,100 in severance pay -- after he was arrested for felony charges of soliciting sexual favors from female inmates.

In October, DeLong told lawmakers that he was required under authority regulations to provide the severance pay, and said he was looking at revising the legislative rule. DeLong informed the committee that further review of the rules and regulations shows that severance pay can be withheld for employees terminated for gross misconduct.

DeLong said he has been looking at modifying the regulation so that employees suspended during internal investigations could continue to draw pay for up to 15 days, which they would receive eventually as severance pay if they are terminated. He noted correctional officers are frequently cleared of the allegations made against them but face financial hardship by being suspended without pay for two weeks or more.

Also in the November meeting, DeLong confirmed that about 20 employees at Western Regional Jail in Barboursville were at the time, suspended without pay, including 15 who are under investigation for instances of excessive use of force against inmates. In one case, excessive force resulted in the hospitalization of an inmate, he said.

Not all of the suspended employees committed acts of violence against inmates, he said. Others participated in cover-ups under what DeLong called the “buddy system” at the regional jail. DeLong noted that the “buddy system” culture concerns him more than the use of force.

DeLong said the authority hopes to install surveillance

cameras to monitor activity in the regional jails, but said the project will be expensive. He said bids to install the first surveillance system, at Tygart Valley Regional Jail, came in at about \$500,000.

**Agency Updates - December**

During December’s interim meeting, members of the Regional Jail and Correctional Facility Authority were provided agency updates from the Division of Juvenile Services, the Regional Jail Authority, and the Division of Corrections.

First to present their report to the committee was Director for the Division of Juvenile Services, Dale Humphries. Following the report, committee members questioned Humphries on the ongoing discussions surrounding the possible closing of the youth Industrial Home that is located in Salem, West Virginia. According to Humphries, the Division of Juvenile Services has been ordered by a Mercer County Circuit Court Judge to halt sending youth offenders under the age of 15 to the home. Those youths who were at the facility and under 15 have already been sent to other facilities. Reasoning for this is concerns for these individuals’ safety and well-being. Director Humphries told the committee that there were only two youths at the facility who were under 15. Executive Director of the Regional Jail Authority, Joe Delong, presented his report and also updated committee members on the status of two investigations regarding the excessive force used by 15 correctional officers at the Western Regional Jail in Barboursville.

The first investigation has been completed and six officers are receiving disciplinary action ranging from suspensions



without pay to termination. Another correctional officer resigned in the course of the investigation.

Eight correctional officers are involved in another incident at the facility that is still under investigation. This investigation does not involve Regional Jail administrators and the outcome could lead to criminal charges against these officers.

The Director of the Division of Corrections, Jim Rubenstein, was also on hand to provide the committee with the Division of Corrections report.

## **Workforce Investment and Economic Development**

### **State Money from Higher Education - November**

The state's higher education system is an enterprise worth about \$13.5 billion, and West Virginia sees a large chunk of that according to Paul Hill, Chancellor of the West Virginia Higher Education Policy Commission.

Hill told the committee that the higher education system has an economic impact of about \$7.9 billion, meaning the state can expect to see a \$50 return on every \$1 spent on education in fiscal year 2014. This information is based on a 2010 report by the West Virginia University Bureau for Business and Economic Research and takes into account inflation as well as expected jobs created, business volume generated, employee compensation and state taxes.

However, the higher education system may have some problems maintaining this level of economic impact.

Hill said although the HEPC and individual institutions are implementing ways to keep students in school and graduate on time, the number of students who need remedial courses or who drop out of school continues to rise.

Enrollment has dropped this school year, but is still up by about 6 percent over 2008. Hill credits the economic recession for growing enrollment numbers, saying many adults decided to return to school because they lost their jobs or to advance their education. More than 60,000 graduates have entered the state's work force, and an increasing number of graduates are choosing to remain in West Virginia after earning their degrees. According to the WVU report, 45.2 percent of graduates in the past 13 years were on the payrolls of West Virginia businesses in 2010. Most of these graduates work full-time and have associate's, bachelor's or master's degrees, earning an average yearly wage of \$42,247.

However, the state's work force still needs more students. Recent reports show the state is facing a "skills gap" that requires at least 20,000 additional degrees, above current degree production, by 2018 to sustain the state's economy.

To do that, HEPC has challenged institutions across the state to develop their own ideas to retain and graduate their students. The West Virginia College Completion Task Force established five recommendations to help colleges and universities. The recommendations include making graduation a visible and tangible priority for all students, reducing the time it takes for students to earn a college certificate or degree, improving developmental education and connecting to funding priorities.



Increasing adult completion rates is another recommendation. According to Hill, more than 173,000 West Virginia adults have some college but have not earned a degree. Many colleges and universities across the state, including Marshall University, Shepherd University and WVU, offer the RBA Today program that allows adult learners to earn a regents bachelors of arts. The program graduated nearly 1,100 students in the 2011-12 academic year, a 27 percent increase over the 2010-11 academic year. In 2011, every institution graduated more students than it did the previous year. Marshall graduated 340, an increase from 231 in 2010. Shepherd and WVU graduated 109 and 162 respectively.

The RBA program focuses mainly on the 32,000 adults in West Virginia who have already completed more than 60 hours of coursework between 1998 and 2007.

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<b>Interim Committee Meetings 2012/ 2013</b>	
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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