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West Virginia Legislature's Office of Reference & Information

Interim Highlights

Agriculture and Agri-business Committee

Small Farms Center

A representative with the WVU Extension Service addressed the committee regarding current programs of the Small Farms Center at WVU and also the current and potential local food opportunities during this month's meeting.

According to the representative, farming is a \$7.2 billion industry. Of that, farmers receive 20 percent of that, \$1.4 billion, and the other 80 percent goes to processing, transportation, marketing, and jobs, \$5.68 billion. For the commodities they sell, farmers have received decreasing shares of what consumers pay for food at grocery stores and markets for a while.

There are 23,618 farms in West Virginia. Food from these farms brings in around \$591 million, which divided by the number of farms equals \$25,023 for each farmer. However, the farmer's share would rise to over \$300,000 if produced and processed within the state.

The Small Farms Center through the WVU Extension Service introduces new marketing techniques for staple product like beef and potatoes to the state's farmers in order to make them more sustainable. As a result, the number of farmers markets has doubled since 2005 and the number of the state's farms growing vegetables for sale has doubled since 2002. The income from the markets alone amounted to the equivalent of 64 full time jobs.

The representative told the committee that the way to access the potential of West Virginia's farm is through:

- Farmers Markets which is the best starting point
- Community supported agriculture that creates awareness and develops capacity



Judiciary Sub. B/ State Water Resources Committee (08/09/10)

- Food banks
- Contract growing
- Institutional growing

The representative also told the committee that we need more young producers in order for the state's farming market to continue. Education in farming in high school and college is key where they learn not only how to grow food but also learn business management in order to create thriving farms.

Challenges in making this work include:

- A comprehensive plan
- Loans
- · Grants for study and development and infrastructure
- Retail partners
- Confidence/ or lack of
- Farmer cooperatives

Current activities through the WVU Extension Service on supporting local food opportunities include:

Interim Meeting Schedule & Agendas

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

Food clubs



- WV Small Farm Conference, which will be held February 15-19, 2011 at the Lakeview Conference Center
- Southwest WV Food Production Conference
- Sourcing Events
- Slaughter facility study
- Velocity statements from institutions

Children, Juveniles & Other Issues, Select Comm.

Child Advocacy Bill/Jacob's Law

A judge from the 28th judicial circuit gave his position on the Child Advocacy Bill that was proposed during the 2010 Regular Session.

The purpose of this bill is to create the Office of Child Advocacy. The bill also authorizes the director of the office to hire staff, and to investigate and monitor the Department of Health and Human Resources Division of Child Protective Services and the Division of Corrections. It also sets forth powers and duties of the office; defines terms; provides for access to information; sets forth the confidentiality requirements for that information; and provides for the office to sunset on July 1, 2013.

The judge briefly addressed several sections of the bill he opposed, saying that some parts raise concerns that the executive branch would be monitoring the judicial branch and even judicial decisions in some instances. He believes the bill raises separation of power issues and that the judicial branch should be able to work completely independently from the executive branch.

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.

He mentioned that a database has been developed of judges' time compliance on child advocacy issues and that proper self-monitoring by the judicial branch in these matters is sufficient. He mentioned that this database would likely eventually become a matter of public record.

He told the committee that judges would likely support the bill and definitely not object to it if some of these parts were taken out of the bill.

The program manager for the Adult and Children's Policy Bureau for Children and Families also briefed the committee on what's currently being done to implement Jacob's law since its passage during the 2010 Regular Session. The law creates a pilot program setting up four specialized foster care homes in different regions of the state where children meet a team of experts to receive immediate evaluations and testing upon being pulled from their natural homes.

Education Accountability, Legis. Oversight Comm. on

Community & Techinical College System

Members of the Legislative Oversight Commission on Education Accountability met during their first meeting of the August Interim meetings to hear reports from the Chancellors of the Community and Technical College System (CTCS) and the Higher Education Policy Commission (HEPC). Materials for this particular meeting can be found on the HEPC website: **(http://wvhepcnew.wvnet.edu)**

During the report regarding CTCS the Chancellor presented a Capital Projects request list as well as list of initiatives for the current fiscal year.

The projects request totaled \$80 million in projects at 10 different school campuses throughout the Community and Technical College System.

Those initiatives included continuing and enhancing the



current relationship with the Legislature, Governor's Office, Development Office, Workforce West Virginia, State Department of Education and community and technical college presidents. They will begin implementing the provisions of Senate Bill 595 and House Bill 3215 and implement the new Master Plan by developing new institutional compacts with local community and technical colleges. This will include continuing the process of developing two Advanced Technology Centers, conducting two state-level training sessions for Community and Technical College Institutional Boards of Governors and scheduling mandated training sessions for WV Council for Community and Technical College Education members.

They will also continuously evaluate grant opportunities through the American Recovery and Reinvestment Act and Federal Community College Initiatives and apply for grants that advance System goals, host the Governor's Forum on Postsecondary Credential Attainment by Adult Workers for the National Governors Association and seek funding to support on-going college operations and sustain new programs.

Members then heard a report from HEPC regarding the Economic Impact of West Virginia Higher Education Institutions. The West Virginia University Bureau of Business and Economic Research reports that all ten public four-year academic institutions and the main office of the West Virginia Higher Education Policy Commission (HEPC) have a tremendous economic impact on the state of West Virginia.

For FY 2008, the impact was over \$7.9 billion in business volume. The academic institutions included were: Bluefield State College, Concord University, Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Liberty University, West Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia University.

Highlights of the FY 2008 total economic impacts are presented below:

- For FY 2008, total business volume impact for all 10 public academic institutions and the Commission office totaled \$7.9 billion.
- Direct expenditures from all entities totaled \$4.2 billion for FY 2008, leading to an economic multiplier of 1.8.
- State appropriations totaled \$371.3 million for all ten institutions, which means that every dollar the legislature spent on these academic institutions turned into \$21 in the state economy.
- The colleges, universities, and HEPC office directly employed over 18,800 faculty and staff and had a total employment impact of 40,600 jobs for FY 2008.
- For FY 2008, all ten public academic institutions and the HEPC directly paid \$854.3 million in employee compensation that resulted in a total employee compensation impact of \$1.5 billion.
- Total enrollment for Fall 2007 of these ten institutions totaled over 66,700 students, 30% of which were out of state students.
- Over 8,000 Promise Scholars attended these ten academic institutions during the 2007-2008 school year.
- For FY 2008, total assorted state taxes (consumer sales and use, personal income, corporate net income and business franchise) resulting from the economic activities of these academic institutions and the HEPC totaled \$73 million.

The Commission also heard a report on Complete to Compete, Governor Manchin's National Governor's Association Initiative. This initiative will focus on two primary areas:

State Policy - Initiative will focus on issues such as performance funding, rethinking remedial education, removing barriers for working adults.

Metrics - Current metrics of college completion fail to adequately measure progress to degree, especially for non-traditional students. The proposed metrics provide clear, consistent, and transparent measures of student progress and completion that states can use to guide funding decisions and identify areas for improvement. The Commission will seek updates on the progress of this study as they develop.

Interim Highlights

Education Subcommittee A

Vocational Education

During this meeting, the committee continued its discussion on SCR 77, requesting that the joint committee on Government and Finance study vocational education from middle school through adulthood.

The Chancellor of the West Virginia Community and Technical College System addressed the committee, outlining the need for vocational education and some of his organization's ideas to enhance the statewide interest in it.

The Chancellor mentioned that many skilled trade workers are leaving the workforce through retirement and the need to replace them is of vital importance to the state. These facts show a need for vocational education with employees that are job ready when hired. He mentioned that employers want employees to have higherlevel skills when they come into a job. Many companies view extensive training of their employees as production time lost.

While the need for skilled workers is evident in the state, there appears to be a disconnect between students and the message that vocational school is an ideal avenue to pursue this kind of employment. While many technical jobs in West Virginia pay more right out of school than jobs obtained with a four-year degree, still 90 percent of parents want their children to go to a four-year school. One lawmaker noted a clear disconnect between what is needed and what is wanted by parents.

The Chancellor admitted that it is a constant fight to convince parents and students that a vocational education is just as valuable to some students as a four-year degree for other students. He said that our students learn and excel in different ways, so naturally the same four-year college plan does not work for everybody. Some recommendations given by the Chancellor to enhance interest in vocational education at a younger age are as follows:

- Engage students in technical and vocational education during middle school
- Increase funding for a college transition program that places emphasis on vocational education.
- Implementation of a scholarship program similar to the Promise scholarship for community and technical programs. Tennessee and Georgia have these programs and they have led to increased interest.
- Learn and Earn program for adults This is a program that would allow adult students to work as they go to school full-time. This could get many adults through the program quicker while allowing them to make a livable wage while in school. It currently takes adults a long time to get through the program going part-time.
- Identifying students' strength in vocational skills early and cultivating those skills to inspire the student to continue.

One lawmaker requested a roadmap for what is currently being done now and will be done into the future to facilitate a seamless transition between vocational schools and community and technical colleges. He doesn't believe the message of the potential benefits of community and technical schools are getting out to parents.

Everyone was in agreement that you have to get kids engaged in vocational school education at the middle school age or before. Anytime after is generally too late. They are striving to make these kids realize that a vocational education can set them up for certain types of very good-paying jobs later in life.

Many lawmakers wondered if you could change high school curriculum to include more vocational study given all the new federal requirements for curriculum.



Equal Pay Commission

Equal Employment Opportunity Office

The director for the West Virginia Equal Employment Opportunity Office gave a brief description of the roles and duties of the office.

The mission of the West Virginia Equal Employment Opportunity Office is to prevent and eliminate unlawful employment discrimination, to provide training, and to promote diversity and Affirmative Action in West Virginia state government. The EEO is set up to deal exclusively with state agencies and with state employees.

The EEO acts as an advisor to state agencies and state employees about EEO matters. It is the agency that oversees all other state agencies to ensure that state employees are not being discriminated against in the workplace. The EEO answers questions from agencies and from state employees about EEO topics such as discrimination, harassment and hostile work environment.

The EEO also provides training to every state agency, including all agency EEO coordinators and counselors, on the identification and prevention of discrimination in the workplace. The EEO reviews all documents from formal EEO investigations, whether it acted as the investigator for the complaint or whether the agency used its own or other agency investigators. The EEO acts as a repository for all EEO files from every formal EEO investigation conducted by every state agency.

The office also acts as oversight agency for the state's Affirmative Action reports.

Interim Meeting Schedule & Agendas

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Finance Subcommittee B

Workers' Compensation for VFDs

The state's Department of Revenue Secretary briefed the committee on what is being done to fund worker's compensation premiums for volunteer fire departments in West Virginia.

In July, at the urging of the governor, the secretary formed the Volunteer Fire Department Workers' Compensation Task Force. The group is charged with finding a solution to the workers' compensation costs faced by volunteer fire departments.

After it became known that many volunteer fire departments were facing significantly higher workers' compensation costs as of July 1, BrickStreet Mutual Insurance Co. agreed to freeze its rates for one year.

In July BrickStreet said it would stop underwriting the departments' "broad form" liability plans on Sept. 1. Later that month the governor announced that the state Board of Risk and Insurance Management would offer broadform coverage to 281 volunteer fire departments through June 30, 2011. Earlier this month Volunteer Firemen's Insurance Services announced that it would extend broadform coverage to departments that already have insurance plans through VFIS.

The secretary told the committee that the task force has made outstanding progress since meeting in July and that the subcommittees formed within the task force need time to study their respective issues in-depth so they may develop a long-term solution to the firehouses' workers' compensation insurance coverage challenge.

Four subcommittees from the original task force have been formed and the secretary has instructed the subcommittee chairs to hold as many meetings as necessary to be able to come back to the full task force in a timely fashion with individual reports as to how to proceed.

Interim Highlights

Finance Subcommittee C

School Board OPEB Liability

During this month's meeting, committee members heard from the President of the West Virginia School Board Association regarding the Association's opinions on the Other Post Employment Benefits (OPEB) issue.

The President of the School Board Association told the committee that county boards of education are mandatory participants in PEIA and have no option but to permit coverage through PEIA for retirees due to state statute. Normally the state aid formula provides funding for a county board's portion of health care premiums billed by PEIA for those employees covered by the formula. However, changes made to the State Code now mandates that the total OPEB liability remains that of employers, including county school boards, until fully paid. County boards must reflect their total OPEB liability on their annual financial statements, the reflection of which results in current liabilities greatly outweighing current assets for the majority of county boards.

As a result, the President of the Association said all county boards' financial statements will reflect a deficit in the near future as a result of reporting the total OPEB liability. The OPEB cost for the 2010-2011 fiscal year is \$624 million. For 50 counties, the total OPEB liability for the fiscal year ending June 30, 2009 totaled \$45,382,683.

The President told the committee that as a result of the changes made to the Code, some county boards feel that they cannot wait and count on PEIA never attempting to collect on invoices and as a result have begun setting aside funds to pay for their OPEB liability debt. However, those funds being set aside would have been used for student instruction, classroom materials and supplies, extracurricular activities, additional personnel, as well as other uses. For example, Wood County placed a \$15 million liability on their books. All counties are doing similar things.

With the changes made to the State Code, a lawsuit was

filed earlier this year on behalf of 50 of the state's 55 county boards of education that argues that the boards should not be obligated to contribute more to the West Virginia Retiree Health Benefit Trust fund than the amount of funding they receive from the state to take car of those OPEB costs. The President of the Association told the committee that this is a State liability because the State permits retiree health coverage under PEIA and because the State has always funded such coverage under the school aid formula for those covered by the formula.

The first and main recommendation brought forth by the School Board Association is to deal with accountability first. Other recommendations included cutting money in education, county boards pay a portion, or change investment growth rate.

OPEB

During Finance Subcommittee C's second meeting this month, committee members reviewed and discussed possible options regarding OPEB organized by concepts.

Possible solutions targeting the retirees' subsidy included such topics as:

- Design the retiree subsidy to be needs-based and also consider using the Premium Assistance Program.
- Replace subsidy with a stipend that can be applied to PEIA premium, other PEIA cafeteria options or used to buy insurance on a state exchange.
- Increase minimum retirement age and vesting requirements for retirement plans and PEIA subside for prospective hires.
- Increase co-pays, deductibles and coinsurance for retirees to reduce subsidy and utilization.
- Set minimum retirement age to be 65 or the age at which the retiree becomes eligible for Medicare.
- Make premium subsidy amount scalable by years of service.
- Provide incentives to encourage retirement-eligible workers to remain employed until they can be dually eligible for Medicare.



Solutions to consider that focus on leave conversion included:

- Sick and annual leave earned prospectively could not be converted into post-retirement benefits.
- Sick and annual leave earned has fixed dollar amount.
- Replace sick and annual leave with a new form to be known as "paid time off."
- Liberalize the use of sick leave such as increase family sick leave.
- Revamp the buy-back program where employees can cash-in their unused sick leave for bonus pay.
- Ideas were raised regarding how to provide new funding for OPEB. Some of those options include:
- Dedicate Rainy Day B to the OPEB Trust.
- Rededicate Personal Income Tax proceeds, which equal \$95.4 million a year, from WC Old Fund to the OPEB Trust.
- Increase tobacco taxes and dedicate additional, or a portion, to the OPEB Trust.

The committee will continue to look at these options during future interim meetings.

Rock State Forest in Monongalia and Preston counties, which has a surface area of 12,747 acres.

Officials also estimate that the earth beneath these lands contain 57,817 acres of coal, though the agency stated there's been no discussion of developing those resources. The surface area of the eight forests together total more than 71,000 acres.

DNR is projected to spend around \$86 million from general revenue taxes, federal funds, lottery proceeds, and such special sources as permits and fees this budget year. The agency also oversees state parks and wildlife management areas among its various duties.

Private interests have active wells on three of the properties, including Kanawha State Forest. Cabwaylingo also hosts private wells, as does Camp Creek State Forest in Mercer County, said a DNR Land and Streams supervisor.

All of the state forests except Kanawha do see timbering, managed by the Division of Forestry.

The lawmaking panel all suggested that consideration of a leasing program for the mineral and gas rights is overdue.

Forest Management Review Commission

Leasing DNR Properties for Gas Drilling Rights

Lawmakers on the Forest Management Review Commission asked representatives from the Division of Natural Resources (DNR) to examine the possibility of leasing natural gas drilling rights at those properties, saying gas leases could provide a serious revenue boost for that agency.

Agency officials estimate that the state owns a total of 42,577 acres of oil and gas deposits beneath all of the eight state forests except Cabwaylingo in southwestern West Virginia.

The holdings range from 49 acres beneath the 9,300-acre Kanawha State Forest to 13,739 acres beneath Cooper's

Joint Standing Committee on Gov. Organization

Licensing Boards Study Resolutions

Heard a brief presentation of two study resolutions, House Concurrent Resolution 91, seeking a study of the authority and structure of professional and occupational licensing boards, and, House Concurrent Resolution 92, seeking a study of the advisability and feasibility of the creation of an administrative unit of state government to assist professional licensing boards.

The purpose of these studies are to examine if there are ways to better provide access to these Chapter 30 Boards



in a more streamlined fashion to consolidate costs. This could be done, members were told, simply by consolidation of similarly functioning boards for the purpose of centralizing staff and sharing space, thus lowering rent paid by these boards. Staff could be consolidated simply through attrition over a number of years and any savings made could transfer on the licensees through the certification process.

As an example, members of the Board of Acupuncture and West Virginia Massage Therapy Licensure Board spoke to the committee stating the through a Memo of Understanding those two boards consolidated staff and space two years ago and have been running smoothly ever since.

The Joint Committees will continue to study this issue and have asked the West Virginia Performance Evaluation and Research Division to provide them with more information regarding this matter.

Government Organization - Subcommittee C

OSHA Implementation

Members of this subcommittee received an update of the report detailing the Occupational Safety and Health Act (OSHA) implementation - which had previously been studied in 2002.

The legislative report performed by the Performance Evaluation and Research Division in 2002 found that the OSHA program had not been fully established at that time. Specifically, the Division of Labor was not proactively inspecting public workplaces or collecting public employer statistics and had not established two review panels that had been required by law.

Ultimately through correspondences with the Division, review of provided documents and comparison to the previous report, the Legislative Auditor has found that the current status of the program implementation is the same as in 2002. The Division stated that the WV OSHA has remained without funding since its passage in 1987 and it is for this reason that the deficiencies are present. With the available resources the Division has provided for investigations into complaints about working conditions and provided consultation to employers. Many complaints are responded to administratively with written correspondence if the charge or request is not serious. On site inspections occur if the situation is a fatality, of an otherwise serious nature, or if the situation cannot be determined.

The committee expects to receive updates regarding this matter in future meetings.

Health - Select Committee

Health Care Reform Impact on PEIA

The General Counsel of the Public Employees Insurance Agency (PEIA) appeared before the committee to provide insight regarding the impact the Federal Health Care Reform program will have on PEIA. The federal program is "just in the works", according to counsel, "and states are rushing to keep up" with multiple applications included in it.

As states scramble to analyze federal stipulations, questions arise regarding available data.

Lawmakers called for PEIA to project a plan since there is not enough available information to talk about figures to date.

An interagency council, made up of representatives from the Insurance Commission, the Health Care Authority, the Health Information Network, Information Technology and West Virginia GOHELP, is working collaboratively to better improve communications and information sharing efforts. Presently the state is working on a combined list of initiatives and time frames regarding the collection of medical



data. It is working with an advisory committee and is evaluating grants and projects available.

The spokesman told legislators that the groups were not missing any opportunities and while the start up program appears weak, it will grow stronger as data is exchanged, such as health information provided by physicians, electronic records are enhanced and disease sharing information in more prevalent.

One problem is the types of electronic systems presently in use in health offices. The costs of updating computer programs may be cost prohibitive for some health care providers although the federal government is providing incentives.

The collaboration of the advisory committee is in full compliance with the federal government except for some reporting requirements.

Also appearing before the select committee was the Deputy Secretary for Administration West Virginia Department of Health and Human Resources to provide an update on the Medicaid Medical Information Storage Project. The agency is looking into the possibility of installing a replacement system for the existing technology in place and bids have been put out although the current system has had its extension secured in the meantime.

Information management systems' (IMS) costs have now increased because of the changes in health insurance, care management, code changes in diagnoses, and other health care data.

Interim Meeting Schedule & Agendas

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Infrastructure, Select Committee on

Broadband

Committee members were updated by the Cabinet Secretary of the West Virginia Department of Commerce regarding the progress of the Broadband Deployment Council and also the plans for the use and expenditure of the Federal stimulus moneys for the expansion of broadband connectivity throughout the state.

The Cabinet Secretary told the committee that through the American Recovery and Investment Act, West Virginia will receive \$126 million in grants in order to build the state's broadband infrastructure. West Virginia is one of only seven states to receive millions of dollars of federal stimulus money, but the only state to apply for a complete statewide grant. The state's application for this funding outlined a plan to immediately deploy broadband infrastructure throughout West Virginia through an open access network that will include 2,400 miles of fiber optic lines and cell towers. The grant received is in three parts including the construction of 12 towers. The Department of Commerce, the Cabinet Secretary said, would be seeking input from providers as well as topography and population density maps in order to pinpoint those areas in the state with the most need.

One lawmaker commended the Cabinet Secretary for her initiative in applying for the federal dollars but did have some concerns that the state would be building infrastructure for one business entity, which as a result creating a virtual monopoly and eliminating competing Internet service providers. The Cabinet Secretary told the committee that the MPLS contract is the one that would be used, which is the process that is already used. The contract is typically with one provider chosen through a very competitive bidding process. The contract was given to Frontier, which the state will give between \$25 million to \$30 million in federal stimulus money in order to bring service to critical access infrastructure areas like schools and libraries. The lawmaker told the Cabinet Secretary that they feared there would be no protections for the public regarding Internet rates for



businesses or households especially if there would be only one main Internet provider. The Cabinet Secretary stated that the best way to drive down costs was to increase demand. West Virginia has 700,000 households, so the state needs to make sure that those households have access and purchase broadband in order to lower Internet costs.

Next to address the committee was the President of Frontier's Southeast Region Markets who discussed plans for broadband deployment in the state.

Frontier is the largest provider in rural America and services 4 million in 27 states. It is split in five regions and uses local market engagement, which means there is a general manager in each market. West Virginia has nine markets with nine general managers with only 220 employees at their corporate headquarters. This ensures improved and more direct customer service.

Frontier's President told the committee about his company's three-year plan in West Virginia to cover the vast majority of the state with broadband. Frontier will invest \$310 million into the plan. Frontier has also hired a number of employees in the state with additional hirings to continue in the next 90-100 days. The President also told the committee that competition is federally regulated, but other companies agreed to the rates that are in place currently to use Frontier's service.

Last to address the committee was the President of CitiNet and also a member of the West Virginia Broadband Coalition who told the committee that West Virginia's defining broadband barrier is the lack of competitively priced broadband transport capacity. It costs 20 to 30 times more in West Virginia for transport capacity, which locks out small markets and limits performance in larger markets.

The President of CitiNet told the committee that Frontier, to their credit, is a for profit monopoly operating in the state and have no free market incentives to aggressively lower Transport Costs in West Virginia. DS3 transport circuits in national tier 1 markets cost \$250 to \$500 per month versus \$10,000 a month in West Virginia markets.

West Virginia's Broadband Coalition believes that the only viable long-term solution for West Virginia is a competitive Middle Mile Transport network that:

- Reduces transport costs by 90 percent
- Unlocks access throughout rural communities
- Stimulates competition, choice, advanced service offerings
- Delivers 100 percent open access- shared data superhighway

The President of CitiNet told the committee that West Virginia's current broadband plan:

- Will not enable broadband expansion into rural markets.
- Will not enable the residential or business broadband consumption.
- Will not provide open access or tertiary benefits to downstream users.

He also told the committee that open access to assets funded by taxpayers should be made to all competitive carriers and cable operators in order to insure maximum benefits.

Joint Meeting - Judiciary Sub. B/ State Water Resources

Coal Slurry Impoundments & Underground Injection

Lawmakers received the Final Report: Phase II of the Coal Slurry Waste Underground Injection Assessment as required by Senate Concurrent Resolution 46 (SCR 46). The resolution requested a study on the effects of coal slurry impoundments and underground injection. This portion of the study covered the effects of coal slurry on public health.

Presented by the DHHR Community Medicine and Project Principal Investigator and an expert from the West Virginia Water Research Institute the report's conclusions indicated that while injection may cause surface and subsurface pol-



lution that could affect human health, there is no existing accessible data that proves that coal slurry injection specifically has done this.

The report said, "We conclude that the data gaps are very large. It is currently not possible to distinguish the absence of proof of specific contributions attributable to coal slurry waste injection from the larger contributions of all sources of the coal industry cycle."

Recommendations provided call for the implementation of a monitoring plan whose objective would be to determine with "reasonable certainty whether injection benefits, has no effect, or degrades ground and surface waters." The report also noted elements to be considered which would be essential for an underground injection control program for coal slurry and includes concepts from the state of Virginia's program.

Judiciary Subcommittee B

Cyber Bullying

The members of the Judiciary Subcommittee B interim committee met during August interim meetings to discuss the issue of cyber-bullying, harassment and stalking. The members heard a report from an associate professor from WVU titled "Who is hiding Behind That Screen? Faceless Threats in the Virtual World"

Cyber bullying involves the use of information and communication technologies to support deliberate, repeated, and hostile behavior by an individual or group that is intended to harm others. Cyber bullying is considered more dangerous and more difficult to address because today's technology allows it to take place anonymously 24 hours per day, 7 days per week.

Research has shown a significant increase in access and use of computers in young people at both school and home.

The statistics presented to the committee showed that of the 265 students from West Virginia, Pennsylvania and Maryland they polled, nearly 60 percent of children in the 4th to 8th grades admit someone has said mean or hurtful things to them online. Just over 50 percent of high school students have bullied others online. Further, 60 percent of youth have not told their parents or any adult about anything mean or hurtful that happened to them online. Further statistics showed that 81 percent of youths asked stated they cyberbully because they think it is funny and nearly 30 percent of teens who were cyber bullied wanted to seek revenge on there tormenters. Fifty percent of youth asked say they have assumed a different identity online. Of those students, 17 percent stated they pretend to be someone else so "I can act mean to people and not get into trouble." Finally, one teen commits or ties to commit suicide everyday because of being bullied.

Staff counsel the presented and reviewed legislation from the 2010 Regular Session, House Bill 4207, which sought to make it unlawful to send obscene, anonymous, harassing and threatening communications by computer, mobile phone, personal digital assistant or other mobile device. Both the House and Senate passed the bill, but disagreements between the two bodies prevented final passage and the bill died in a conference committee.

Judiciary Subcommittee C

Price Gouging

General Counsel for Marathon Petroleum Company spoke to committee members during this month's interim meeting to address the state's statute relating to price gouging.

Marathon Petroleum Company is the fifth largest oil refinery and has the largest pipeline in the United States. Marathon's operations currently include 4,600 Marathon brand stations, SuperAmerica, spanning 18 states including West Virginia, which Marathon is West Virginia's only supplier.



General Counsel for Marathon told the committee that the Legislature should consider easing the state's price gouging law in order to give the governor more discretion on when such government-mandated price limits should go into effect. Currently, when the President of the United States issues a national emergency, states put in place price-gouging protocol. There are currently 39 states with price-gouging laws, but West Virginia's is one of few that carry possible criminal and civil penalties. West Virginia's statute prevents businesses from profiting in areas of the state by raising the prices of basic necessities by more than 10 percent of what the prices were 10 days before the emergency was issued.

Marathon, however, believes that West Virginia's current price-gouging law has economic ramifications. Counsel for Marathon told the committee that the company, along with other businesses, has to consider the cost of doing business within the state, which could create fuel shortages in certain areas as suppliers cut back on shipments to stations.

General Counsel for the company did provide some suggestions for the committee, as well as the Legislature, to consider in order to improve the current statute. Some of those suggestions were:

- Raise the 10 percent cap to at least 20-25 percent and ensure businesses wouldn't be punished for price increases inside an emergency area if they were consistent with those outside of the area.
- Separate the trigger for the law going into effect from the declaration of emergency.
- Give governor authority to enact price controls and have them list what goods were affected by the order, which the order would expire after 30 days unless the governor chose to renew it.
- Decriminalize the law because it creates uncertainty especially for small business owners.

Freedom of Information Act

Counsel for the committee provided a summary to the members of the Freedom of Information Act (FOIA) regard-

ing public records.

A handout from the Attorney General's Office states that the state FOIA on public records was enacted for the purpose of providing full and complete information to all individuals about the workings of government and the acts of those who represent them as public officials and employees. The Act applies to all state, county and municipal officers, governing bodies, agencies, departments, boards and commissions, and any other bodies created or primarily funded by state or local authority. The only exception is if an enabling statute specifically exempts them from its provisions.

There are a number of exemptions when it comes to the types of information that can be given out to the public. Some of those exemptions are:

- Trade secrets
- Test questions
- Medical or other personal records
- Records relating to the response of terrorist acts or the threat of terrorist acts.
- National security records
- Security or disaster recovery plans
- Records of the Division of Corrections and Regional Jail Authority

Minority Issues, Select Committee on

Racial Educational Disparities

The Director of the West Virginia Education Alliance briefed the committee on factors relating to racial educational disparities.

The director distributed data that clearly show's that too many West Virginia students, many of whom are low-income or non-Asian minorities, are not well served by public schools as they currently operate.



No matter the achievement indicator - WESTEST2, college entrance exams, high school completion rates, AP course and exam performance, scholarship opportunities, or college enrollment and completion rates - certain achievement patterns recur.

Case in point is the 2009 ACT data for high school seniors. The ACT is a college entrance exam composed of four tests - reading, mathematics, science and English. The ACT is a high-stakes test. Students' scores often affect their college admission and scholarship status.

From 2005 to 2009, the relative performance of Asian, white and black students was unchanged.

Scores on each subject area and the composite score range from 1 to 36. Asian students consistently scored highest with composite scores of 23 to 23.5, black students consistently scored the lowest with composite scores ranging from 17.3 to 17.7, and white students were in the middle with composite scores ranging from 20.5 to 20.8.

Aside from the entrenched achievement-gap patterns, in 2009 only 17 percent of West Virginia high school seniors taking the ACT, compared to 23 percent nationally, met all four ACT benchmark scores. (Meeting a benchmark score indicates students have a 75 percent chance of making a C or higher in the corresponding college course).

Moreover, only 30 percent of West Virginia high school seniors scored high enough on the ACT mathematics test to have a 75 percent chance of getting a C or higher in their freshman mathematics course, compared with 42 percent nationally.

Data for the various ethnic groups reveal even more challenges for West Virginia's students. Only 4 percent of black, 17 percent of white and 31 percent of Asian high school seniors met all four college readiness benchmarks.

As a consequence, it comes as no surprise that the six-year graduation rate for first-time, full-time bachelor's degree-

seeking freshmen in West Virginia public colleges ranges from 12.8 percent to 55.6 percent.

The director passionately stressed that we cannot wait to get involved in changing these dismal statistics. She believes West Virginia must develop a teacher effectiveness measure, and that measure must weigh heavily in staffing decisions. To ignore teacher effectiveness is to employ what has been termed the "Widget Effect," a tendency to assume effectiveness is the same from teacher to teacher.

The director believes that this fallacy fosters an environment in which teachers cease to be understood as individual professionals, but rather as interchangeable parts. In its denial of individual strengths and weaknesses, it is disrespectful to teachers; in its indifference to instructional effectiveness, it gambles with the lives of students.

The director says that ignoring the importance of teacher effectiveness is simply not defensible. Research repeatedly affirms that a teacher's content knowledge, pedagogical skills and disposition have powerful impacts on students' learning. All children, especially poor and minority children, need teachers who:

- Want to teach in their school and community.
- Want to teach the subject or subjects they are assigned.
- Have the content knowledge, pedagogical skills, and disposition to facilitate students learning.

The director also mentioned that standards are too low across the state and particularly in rural or low-income areas, saying that instead of shielding students from the rigors of academics we should prepare them more for them so they can achieve. She also mentioned that she believes the state needs a longer school calendar, perhaps shifting from 180 to 200 instructional days.

The director also noted that she believes that until the state develops an entity that has vision, passion and is willing to give time and resources to state education and is willing to follow through, nothing will change.



The director strongly declared that education could break cycles of poverty for current and future generations, if we dare to place students' learning first. She noted that North Carolina and Tennessee have revamped their education systems to dramatically improve achievement.

The director concluded by saying that West Virginia must have one uncompromising goal - passing legislation that begins to create a public school system that ensures all students are taught by effective teachers, from pre-K to 12th grade, in all subject areas, in all parts of the state.

Parks, Recreation & Natural Resources Subcommittee

White-nose Bat Syndrome

An Environmental Resources Specialist addressed the committee on White-nose Syndrome, which is killing many bats in West Virginia and throughout many other parts of the country. (WNS) This disease is thought to have begun in Albany, NY around 2006.

WNS is a serious wildlife health crisis estimated to have caused the death of more than 1 million bats during the past three years. It is named for a white fungus that often appears on the muzzles of hibernating bats. Once a cave is infected, the fungus spreads rapidly through the bat population, and mortality may exceed 90 percent.

The specialist explained that WNS is spread bat-to-bat as they cluster in caves and mines. In addition, scientists have evidence that it could also be transferred from one cave to another on the footwear, clothing, and gear of humans visiting caves. Infected caves and mines may not initially show obvious signs of its presence, so cavers may be unaware that their gear is contaminated.

Bats with WNS use up their fat stores too quickly and do not have the energy reserves they require to hibernate the entire winter. The bats exhibit unusual behaviors, such as flying out of caves during the winter, even in the middle of the day. Unfortunately, few insects are available for the bats to feed on, and eventually the bats starve to death. There have been no reported human illnesses attributed to WNS, and there is no evidence to suggest that WNS is harmful to any animals other than bats.

In January 2010, bats were observed flying out of the entrance of Hellhole Cave in Pendleton County. Laboratory tests conducted on a little brown bat captured as it left Hellhole confirmed that the bat was carrying the WNS fungus

The specialist explained that bats play a key role in keeping insects, including agricultural pests, mosquitoes and forest pests, under control. Between April and October, each bat can eat its body weight in insects each night. Bats provide a tremendous public service in terms of pest control. If we lose our bat populations, we will lose the tremendous ecological and economic benefits the bats provide.

Because people may inadvertently transport WNS, in March 2009, the U.S. Fish and Wildlife Service recommended a moratorium on caving in states with confirmed WNS and all adjoining states. In addition, because scientists are concerned about the presence of WNS in the vicinity of the most important Virginia big-eared bat caves, last year a few of these bats were brought into captivity for the first time in an attempt to establish a healthy population that could be used to restore populations if that should become necessary.

West Virginia is home to 14 species of bat, 10 that live in caves and four that live in trees. Two species of bat that reside in our state are currently endangered. They are the Indiana bat and the Virginia big-eared bat. The state is home to 95 percent of the world's Virginia, big-eared bat population and luckily, this species seems to be more resistant to the disease than most

The most alarming statistic given by the specialist said that there is a very good chance of extinction of the little brown bat species over the next several years, based on current trends, if the disease is not contained.



PEIA, Seniors & Long Term Care, Select Committee on

Proposed Senior Hunting and Fishing Licenses

A representative from the Division of Natural Resources addressed the committee about proposed legislation that would impose a license fee on the state's senior citizens for hunting and fishing. Under current state law, seniors are exempt from most license requirements.

According to DNR statistics, 6 percent of the state's hunters and anglers are currently 65 and older. All of our border states currently require some license for seniors annually. Below is a breakdown of our border states' annual rates for seniors:

- Ohio: \$10 hunting, \$10 fishing, no lifetime rate
- **Pennsylvania:** \$13.70 hunting, \$11.70 fishing, \$51.70 lifetime hunting, \$51.70 lifetime fishing
- **Virginia:** \$7 annual hunting, \$7 annual fishing, \$15 lifetime hunting, \$15 lifetime fishing
- Kentucky: \$5 annual hunting, \$5 annual fishing, no lifetime

The DNR wants to charge these fees so that they can count seniors toward the federal excise tax. If the state were to impose these fees, they could get \$5 per senior angler or hunter, per year, and count them toward the federal excise tax. Currently federal excise taxes paid by West Virginia seniors are going to other states when they could be captured and spent here at home.

DNR personnel have long considered a very low fee for seniors but the federal government requires that the state charge an amount that produces a net gain after production and distribution of the licenses.

With the state's aging population, the DNR expects a large increase in the number of senior hunters and anglers over the next few years. Therefore, the DNR will increasingly need to tailor more recreational services to seniors but will need fees from them in order to do so. If the state were to do this they would impose a \$25 onetime fee for both hunting and fishing licenses. Those already 65 and older would be exempt. This would allow the capture of more than \$5 annually, per senior, in federal excise taxes.

The other benefits to these fees would include expanded opportunities for seniors in youth deer season, increased development of senior-friendly facilities such as hunting and fishing access sites and a greater voice for seniors in the DNR planning and project selections

Pensions & Retirement, Joint Standing Comm. on

West Liberty Faculty/ Staff Severence Benefit Plan

The President of West Liberty University appeared before the Legislative Pensions and Retirement Committee to discuss its proposed Faculty/Staff Severance Benefit Plan, which was approved by the committee. Both the CEO of the Consolidated Retirement Board and its general counsel agree with the university's plan.

According to state law 18B-1-1d, "each state institution of higher education may include in its strategic plan....policies that offer various incentives for voluntary, early or phased retirement of employees or voluntary separation from employment...that such incentives...be submitted by the governing board to the Legislative Joint Committee on Pensions and Retirement and approved before such policies are adopted as part of the institution's strategic plan..." As such, the president of the university presented and responded to inquiries regarding the higher institution's plan.

Taken from West Liberty's introduction, "The Faculty/Staff Severance Benefit Plan has been designed primarily to help meet emerging programmatic needs and circumstances by providing an opportunity for eligible faculty/staff members to participate in the plan during a specified period.



"It is also recognized that the plan can serve as a valuable transition to retirement for those individuals who originally planned to retire but had found it necessary to delay their decision due to investment market conditions.

"Participation in the plan is totally voluntary and no eligible faculty/staff member shall be discriminated against in any way or by any means if he or she elects not to participate in the plan.

"The entire cost of the plan shall be borne by West Liberty University."

Eligibility calls for at least 15 years of West Virginia State benefit eligible service and any combination of age that equals 70 or greater. Upon proof of eligibility, the applicant's request for acceptance into the plan shall be presented to the President of the school for consideration.

The plan entry date for an eligible applicant is Jan. 1, 2011 or alternately July 1, 2011. The selected Plan entry date is to be specified on a participation contract and the faculty/ staff member must be actively employed on a full-time basis up until the day before the plan entry date.

Boldly stressed in the material provided to lawmakers, "Employees who elect entry into the plan on July 1, 2011 will be subject to t he reduced Schedule of Benefits."

This brief notification does not cover the plan and interested parties are urged to contact the appropriate persons at West Liberty University for a complete, detailed explanation.

At the close of the meeting, lawmakers reviewed a flow chart of city fire protection levies and fees. They continue to study these revenues

Interim Meeting Schedule & Agendas

Please visit West Virginia Legislature's Web site: http://www.legis.state.wv.us/committees/interims/intcomsched.cfm Regional Jail & Correctional Facility Authority

Agency Updates

This month, committee members heard from the Commissioner of the Division of Corrections, the Director of the Regional Jail Authority and the Director of Juvenile Corrections, each of which provided updates in their agencies since the last interim meeting.

First to address the committee was the Commissioner of the Division of Corrections who told the committee that the state's corrections population continues to rise and has already crested over the 6,500 mark. The Commissioner also informed the committee that there are currently over 1,500 prisoners being held in regional jails waiting for bed space to become available within the Division of Corrections.

West Virginia's recidivism rate is one of the lowest in the country, the Commissioner said, but the rate has gone up recently by 1.18 percent each year since 2002. Of the 1,782 offenders who were released from the Division of Corrections in 2006, the successful release rate was 70 percent and the recidivism rate for those returning to the custody of the Division of Corrections within three years was 30 percent, a 3.5 percent increase from the 2005 rate. The largest number of recidivists based on new crimes was property crime followed by drug offenses in 2006.

The Commissioner also told the committee that the Division of Corrections is in the process of opening up more beds in other facilities such as the rehabilitation center in Institute. He also mentioned that the Division of Corrections has acquired the old Holiday Inn in Parkersburg, which will create another 150 beds.

Next to address the committee was the Director of the Regional Jail and Correctional Facility Authority who informed the committee that the number of inmates currently being held in the state's regional jails is 4,429. Of those, currently 471 are without their own bunks. In order to make more room, the Regional Jail Authority has begun purchasing

Interim Highlights

pods, which accommodate 98 people a pod. However, the pods are very costly at \$20 million each.

One committee member asked the Director how the Regional Jail Authority is doing, employment wise. The Director told the committee that the Authority is currently down 100 employees but aggressively recruits as much as possible. He told the committee that the Authority couldn't keep employees with what they are required to pay them.

Last to address the committee was the Director of Juvenile Services who informed the members that the number of juveniles incarcerated has stayed the same at around 370 inmates. Total youth, however, assigned to Juvenile Services is 819 with almost 500 juveniles placed in community placement.

The Director told the committee that Juvenile Services continues to work on plans that will enable more youth to remain in the state for treatment by expanding Youth Reporting Centers, creating additional specialized treatment programs, and adding to the current bed capacity. They are striving to market their facilities and programs in order to encourage probation officers and circuit judges to utilize the in-homes and instate programs.

Veterans' Affairs, Select Committee on

WV Veterans Surveys Report

Preliminary findings and portions of "From Combat to College," a survey distributed to West Virginia veterans, were released to lawmakers sitting on the Select Committee on Veterans' Affairs as well as to the United States Senate Committee on Veterans' Affairs.

Conducted by West Virginia University's Veterans Work Group at the request of the state select committee and lead by its Project Lead and Primary Contact Joseph R. Scotti, PhD, the survey covered the health status and deployment experiences of state veterans who served in recent conflicts, including in Iraq, Afghanistan, Bosnia/Kosovo, and various areas of the Persian Gulf.

Mailed to 6,400 veterans in early December of 2007, 1,056 confidential completed surveys have been returned to date. One thousand surveys were undeliverable due to changes in addresses.

The 108 item survey developed by the Veterans Work Group covered demographics, deployments, combat exposure, systems of post traumatic stress disorder (PTSD), impact of symptoms, and use of services.

The "samples" included in the survey included residents in all 55 counties (27% residing out-of-state, 73% residing in state). Ages ranged from 20 to 56-years-old; 10% were female and 90% were male. Other factors such as marital status, race/ethnicity, levels of education and places of residence were also included in the sample categories.

According to survey findings comparing checklist scores suggesting PTSD, clinical depression or both with "other veterans" who did not scored in the PTSD/Depression group but who still may qualify for other diagnoses, eg... panic disorder, generalized anxiety disorder or no diagnosis at all

- Veterans with PTSD/Depression were more likely to have served in the National Guard, the Army, had combat roles and exposed to heavier levels of violence inflicted on themselves or others.
- Prior to deployment all veterans were likely to be employed
- After returning home, veterans with PTSD/Depression (12%) were more likely than "other veterans" (4%) to be unemployed, or be physically/mentally disabled (11% vs. 1%).

Fifty-six percent of rural veterans had scores suggesting PTSD, significantly more than urban (32%) and out-of-state (34%) veterans.

In addition, according to the findings, veterans with PTSD/



Depression who are residing in rural counties are reporting a poorer level of functioning than those without PTSD in rural counties and veterans both with and without TTSD/Depression who are residing in urban counties.

Veterans have five levels of mental health services available to them: (1) informal support of family, friends and other veterans, (2) formal support from veteran organizations and support groups, (3) emergency/medical services such as crises lines and emergency rooms, (4) mental health services from clergy, counselors, social workers, psychologists, psychiatrists, and (5) center-based services such as community mental health centers, Vet Center, VAMC and psychiatric hospital.

Again, according to the survey findings, veterans indicated being reasonably aware of the multiple services at each level (81 -88%). Less than half reported actually using the services although over two thirds of veterans having used a level of service reported the service was helpful.

Female veterans were more likely to use more levels of services than males; veterans in rural areas relied more on family and other vets; all veterans with good family/personal relations more likely used informal and formal levels; unmarried veterans were more likely to use formal and emergency/crisis levels; and, lower income veterans related to use of more levels of assistance and VA services.

The survey also found that student veterans have as great a need for support and mental services as other non-student veterans.

Findings also indicated that returning veterans are not fully accessing the services whether or not they know the services exist; and, using them does not mean they helped. In some instances symptoms of PTSD and Depression wax and wane over time. Symptoms may not be evident until some years after a traumatic event, such as combat.

Early intervention is recommended as a preventative measure. Those veterans who are currently not reporting PTSD/ Depression need "to be aware and seek treatment prior to a worsening of their status", according to the survey's summary and issues of concern. The findings also called for college campuses to become "military friendly" and allow for special arrangements regarding tuition and early registration. Also, veteran orientation programs should be geared toward older and more "worldly". A veterans' advisor, advocates and trained faculty would also serve as a support system for returning military personnel. A point of contact or a place for veterans at colleges and universities would allow for better adaptation to the new environment returning veterans experiences.

This summary is a brief explanation of some of the preliminary findings of the workforce. Further inquiries should be directed toward Dr. Scotti at Joseph.Scotti@mail.wvu.edu who is continuing to seek further information from colleges and universities and veterans at large as well as federal funding to provide a clear and complete analysis of services provided to veterans.

LOCWIED

Apprenticeship Program

During this month's meeting, the Legislative Oversight Commission on Workforce Investment for Economic Development was updated on the apprenticeship program, new programs and partnerships by the Chancellor of West Virginia's Council for Community and Technical College Education.

For the 2009-2010 school year, the following partnerships were created:

- Easter WV CTC and Nu Page, Inc.
- Kanawha Valley CTC and Bayer Crop Science
- Kanawha Valley CTC and Building and Trades Council
- Mountwest CTC and International Painters Union
- Mountwest CTC and WVSPA
- WVU-P and Simonton Windows



Technical Program Development grants for 2009-2010 were:

- Bridgemont for Blasting Technology in the amount of \$220,000
- Blue Ridge for Systems Engineering, Physical Therapy Assistant, and Converged Network Technologies, each in the amount of \$220,000.
- Eastern WV for Wind Energy Technology in the amount of \$220,000 and AAS Nursing in the amount of \$219,740.

Updates found in the CTCS report also listed all HEAPS Workforce Component for 2009-2010 as well as all West Virginia Advance grants. Current Workforce grant funding was also listed in the report.

New Workforce Initiatives were mentioned in the report, specifically sector-based workforce development that would group similar industries in order to address education and training needs. This would serve as an aid in developing a common set of core competencies among those industries. Curricula developed by one community and technical college for a sector can be utilized by all community and technical colleges in the system, the report stated.

Aside from providing updates on the progress of these programs, the Chancellor also provided the Commission with possible recommendations in order to make higher education more affordable, especially for younger prospective students who may not have attended college straight out of high school and the middle group of high school students that need a post-secondary education.

One of the recommendations mentioned would initiate the "Learn and Earn Program" which would allow students to take courses in a program and also be employed through a co-op or apprenticeship by a sponsoring company. The student would receive a salary through the co-op or apprenticeship while also attending class. Companies participating in the program would be granted a tax credit for 50 percent of the salary paid to the student. The Chancellor did inform the commission that this program would cost money

but could be capped at \$5 to \$6 million. Positive aspects to the program would be:

- Provide students a chance to go to school and earn a wage, which would be more than minimum wage.
- The Community and Technical College System can meet high-need job demands at a faster pace and improve graduation rates.
- The student would gain valuable work experience.
- The employer would be involved in the education and training of the student.
- The employer could evaluate the student, which would give the students an inside track to full-time employment upon graduation with the sponsoring company.
- Employers get better-qualified employees, and students will most likely remain within West Virginia if offered employment by the sponsoring company

Another recommendation would be the creation of technical program grants/scholarships with distinct eligibility and award criteria for students in critical technical training programs.

Other recommendations brought forth by the Chancellor was increasing Higher Education Adult Part-Time Student (HEAPS) grant program funding and also increasing facility capacity to deliver technical programs.

The Commission was also updated on the status of the state's unemployment compensation fund by the Interim Director of WORKFORCE West Virginia.

There is currently \$106 million in the unemployment fund. However, if the unemployment rate, which is currently 8.5 percent, does not decrease between now and the end of the year, the fund will be completely depleted by February of next year. The Interim Director told the committee that something needs to be done sooner rather than later because it would take a few months before funding becomes available once legislation or some other form of change is implemented. The Interim Director also told the committee that if the fund were depleted in February, borrowing from



either the state or from the federal government would be a short-term solution.

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.

Interim Committee Meetings

2010/ 2011

October 11 - 13, 2010 November 15 - 17, 2010 December 13 - 15, 2010 January 9 - 11, 2011

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