

Virginia Legislative Record

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SJR 372: Joint Subcommittee to Study the Feasibility of a Statewide Health Insurance Experience Pool for Educators and Local Government Employees

October 10, 2007

The joint subcommittee held its second meeting in Richmond on October 10, 2007, with Senator Norment as chair.

Constitutional Issues

Staff presented an overview of the constitutional issues regarding General Assembly mandates to local school boards. The state Constitution divides public educational responsibility among the General Assembly, the Board of Education, and the local school boards. The General Assembly is responsible for the provision of free public primary and secondary schools and establishment and maintenance of a high quality educational program; the Board of Education is responsible for the general supervision of the Commonwealth's public school system; and local school boards are required to supervise just those schools in its respective school division.

The law is not clear as to the constitutionality of a General Assembly mandate that local school boards participate in The Local Choice, the state's health insurance program created exclusively for local governments, authorities, school divisions, and constitutional officers. Staff discussed several relevant Virginia Supreme Court cases of interest to the members and the hypothetical legislative mandate that school boards purchasing health insurance for its employees must purchase such insurance through a state program. Staff concluded

that a General Assembly mandate that local school boards participate in a state-created health insurance program with choices for specific coverage may avoid some constitutional questions.

Presentations

HEALTH INSURANCE PROGRAMS IN OTHER STATES

Carol Malone, Senior Health Care Specialist for the National Education Association (NEA), provided the joint subcommittee with an overview of health insurance programs in other states. Topics of her presentation included:

- Goals of statewide health insurance pooling.
- State health insurance pools for public education employees.
- State pooling legislation.
- Feasibility studies.
- Pooling issues and considerations.
- Other types of pooling opportunities.

Goals of statewide health insurance pooling

The goals of statewide health insurance pooling include the expansion of health plan bid opportunities, the creation of greater leverage with carriers and providers, the spreading of pool risks across a larger group of people, and the restraint and stabilization of health insurance premiums and administrative

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Regulatory Alert

For more information, visit study websites. DLS Staff members maintain a comprehensive website on each study that contains a complete summary of each meeting and links to additional study information, handouts, and resources.

Some of the goals of statewide health insurance pooling are health plan bid opportunities, creation of greater leverage with carriers and providers, spreading of pool risks across a larger number of people, and stabilization of health insurance costs.

costs. Additional goals include the reduction and/or elimination of broker, consultant, and other commission payments, the achievement of better health plan cost management, and the assurance of long-term health plan solvency and viability. The most important goals, however, are the improvement of school employee health status, the provision of the highest quality plan, benefits, and provider choices, and the attraction and retention of qualified educators.

State health insurance pools for public education employees

Ms. Malone discussed insurance pools that have been established by states legislatures that pool employees statewide, including those implemented in Alabama, New Mexico, and Texas. In these pools, the same rates exist throughout the state for the same plan, but there may be some regional rate differences for HMOs. Characteristics common to pools include:

- Little to no stakeholder opposition.
- Central administration.
- One main carrier with one or more smaller carriers.
- Pool boards that include teachers and support professionals.
- Prescription drugs carved out of the programs.

Ms. Malone provided the members with a list of NEA state affiliate pools, including those in existence in Indiana, Maine, Michigan, Vermont, Washington, and Wisconsin, and further listed those states that pool education employees and state employees. The states of Delaware, Georgia, Kentucky, and North Carolina mandate that education employees and state employees be pooled together. The pooling of education employees and state employees is voluntary in Oklahoma, Tennessee, New Jersey, Utah, and Massachusetts.

State pooling legislation

Ms. Malone discussed current legislation being considered by Massachusetts, Michigan, Oregon, Pennsylvania, and Montana. The passage of state pooling legislation depends on the vital support of large localities and school districts, NEA state and local associations, and other stakeholders. Deal breakers for state pooling legislation often turn on whether pooling is mandatory or voluntary, the choice of plans and providers or lack of choice, and whether the insured see benefits cut or costs increased. She suggested that

legislators identify and include opposition and supporter participation early in the legislation process, identifying the current health plan, service, and prescription drug providers.

Feasibility studies

Feasibility studies compare and contrast localities and school districts by cost and utilization experience, benefit package and value, and premiums, contributions, and other costs and current plans are compared to more standardized. Feasibility studies usually require at least three years of health plan data. Ms. Malone discussed New Mexico and Pennsylvania that mandate school districts provide health data for feasibility studies. She noted that states without mandates are hindered in collecting necessary data for a thorough feasibility study.

The goal of a feasibility study is to determine whether savings will result from pooling. Savings should result from the creation of a large pool and not from cuts to benefits or the shifting of costs to employees. Ms. Malone provided information on projected savings in Oregon, Minnesota, and Pennsylvania. She cautioned that who conducts a feasibility study and how the study is conducted influences the validity of projected savings. Savings may depend on aspects of the pool, such as:

- Mandatory or voluntary participation.
- Start-up costs and plan design.
- Statewide standards for procurement, administration, and evaluation.
- Benefits that are carved-out.

Ms. Malone noted that projected savings correlated with the existence of a state wellness and health management program, and states with these programs estimated higher savings. Some states look at statewide carve-outs and/or pooling of the following:

- Prescription drug benefits.
- Mental health, dental, and vision benefits.
- Mandatory regionalized consortia.
- Reinsurance/stop loss.

Ms. Malone explained that too many plan options could create two pools, one for the sick and one for the healthy and listed some of the important questions that should be answered before considering legislation for a statewide pool:

- *Will the pool be mandatory or voluntary?*

- *Who will operate the pool?*
- *Will there be centralized administration?*
- *Will the pool combine or separate active and pre-Medicare eligible retirees?*
- *Will the pool self-insure, fully insure, or both?*

Issues Facing Localities

Dean A. Lynch, Director of Intergovernmental Affairs for the Virginia Association of Counties (VACo), and Mr. Wayne Faddis, Administrator of Risk Management Programs for VACo, gave an overview of the issues facing various localities throughout the Commonwealth.

Northumberland County

Mr. Lynch shared the specific difficulties faced by Northumberland County with respect to the provision of health insurance to its employees. The county's health insurance plan covers both Northumberland County School Board employees and Northumberland County employees, a total of around 245 policies. Seven years ago, in response to escalating costs of health insurance, the county unsuccessfully sought legislation for its school board employees and county employees to be pooled in the state employees' health insurance plan.

Northumberland County was unable to self-insure county and school board employees, because the costs were too high with its existing \$25 million budget and one severe claim would significantly affect rates. The county claims that its rates increased 31.9% in 2002 due to one heart surgery and one kidney disease claim. The county reported that the average annual increase in health insurance coverage costs has been approximately 15% over the past 10 years. As a result of escalating insurance costs, the Northumberland County board of supervisors considered dropping certain benefits and establishing an employee out-of-pocket co-payment of \$1,000 before any benefits are paid.

VACo Perspective

Mr. Faddis provided information regarding health insurance costs common to all localities in the Commonwealth. VACo health insurance trust, available to localities throughout the Commonwealth, will cease operations at the end of the calendar year. Mr. Faddis testified that the cost of prescription drugs is one of the major

contributors to the skyrocketing costs of healthcare insurance. He noted that while costs of health insurance rise because insurance companies seek profit, the increased utilization of benefits also contributes to increased costs. Mr. Faddis postulated that the costs of health insurance will steadily increase even if local government employees and educators were all pooled under a state health insurance experience pool if the number of benefits and the amount of utilization remains constant or increases.

Recommendation

The members decided that a feasibility study by a college or university was most likely needed before the joint subcommittee could recommend legislation to the General Assembly for a statewide health insurance experience pool for educators and local government.

The members decided that a feasibility study by a college or university was most likely needed before the joint subcommittee could recommend legislation on a statewide health insurance experience pool.

SJR 372

Joint Subcommittee Studying Feasibility of a Statewide Health Insurance Experience Pool for Educators and Local Government Employees

Senator Thomas K. Norment, Chair

David Rosenberg and Kevin Stokes, DLS Staff
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[study website](#)

<http://dls.state.va.us/insurance.htm>

For multiple copies of the *Virginia Legislative Record* or other DLS publications, please contact the House or Senate Clerks Office.

HJR701/SJR390: Joint Subcommittee Studying Liability Protections for Health Care Providers

October 16, 2007

The joint subcommittee's final meeting focused on the review and approval of its draft legislation on liability protections for health care providers to be recommended to the 2008 General Assembly.

The Joint Subcommittee to Study the Feasibility of Offering Liability Protections to Health Care Providers Rendering Aid During a State or Local Emergency held its third and final meeting of the 2007 interim in Richmond on October 16, 2007, with Delegate Phillip A. Hamilton as chair. The final meeting focused primarily on a review of the draft legislation prepared by staff in accordance with the legislative principles endorsed by the joint subcommittee at its last meeting. The chairman enumerated the legislative principles as follows:

1. Liability protections should extend to all health care providers.
2. Liability protections should cover both natural and man-made disasters, the definitions of these types of disasters should be condensed into one single definition of "disaster," and it should be clarified that certain disease outbreaks would be considered to be disasters.
3. Liability protections should apply both before and after the declaration of a state of emergency.
4. Liability protections should apply to all care provided during a disaster or emergency, regardless of the possible scarcity of resources.
5. Volunteer health care providers should be allowed to recover their actual expenses incurred during the rendition of care.
6. The Good Samaritan statute should include care rendered in response to an accident or emergency but not necessarily rendered at the scene of the accident or emergency.
7. A reference to the liability provision of the Emergency Services and Disaster Law, Va. Code § 44-146.23, should be added to the exceptions to the definition of a patient in Va. Code § 8.01-581.1.

Draft Legislation

Staff then reviewed the draft legislation that they had prepared, noting for the members how the provisions of the draft correspond to the legislative principles endorsed by the joint subcommittee. Additionally, in response to the question posed at the last meeting, staff informed

the joint subcommittee that certain emergency medical technicians, those who receive a fee for services, would be covered by the liability protections contained in the draft legislation while those who work without compensation are already covered by the Good Samaritan statute.

The members then discussed the draft legislation. Steve Pearson, representing the Virginia Trial Lawyers Association, Scott Johnson, representing the Medical Society of Virginia, and Susan Ward, Vice-President and General Counsel of the Virginia Hospital and Healthcare Association, also spoke to the draft legislation. Mr. Pearson also distributed two alternate versions of the draft legislation that he prepared.

The joint subcommittee unanimously adopted several changes to the draft legislation. The majority of these changes were aimed at refining the language in the legislative draft concerning when the liability protections would apply and what conduct is covered by the protections. There was one substantial change made to the legislative draft, which resulted from the chairman's observance of the precise language of the study resolutions. The chairman noted that the study resolutions dealt with the issue of liability protections for health care providers during a declared disaster or emergency.

The members discussed whether portions of the legislative draft involving the Good Samaritan statute and other statutes relating to it were beyond the scope of the study resolutions. The members unanimously agreed that this was the case and directed that those portions be removed.

The draft legislation was then unanimously adopted by the members as suggested legislation for the 2008 Session of the General Assembly.

HJR 701/SJR 390

*Joint Subcommittee to Study
Liability Protections for Health Care
Providers in Emergencies*

Delegate Phillip A. Hamilton, Chair

David Cotter and Greg O'Halloran, DLS Staff
(804) 786-3591

study website

<http://dls.state.va.us/Liability.htm>

HJR 692/SJR 401: Joint Subcommittee to Study Long-Term Funding Sources for the Purchase of Development Rights to Preserve Open-Space Land and Farmlands

October 24, 2007

The Joint Subcommittee to Study Long-Term Funding Sources for the Purchase of Development Rights to Preserve Open-Space Land and Farmlands held its third meeting at Pocahontas State Park in Chesterfield County with Senator Emmett W. Hanger, Jr., as chair and Delegate Edward T. Scott as vice chair. Other members of the joint subcommittee are Senators John Watkins and Mark R. Herring and Delegates Robert D. Orrock, Sr., Thomas C. Wright, Jr., Benjamin L. Cline, Lynwood W. Lewis, Jr., and Albert C. Eisenberg. The focus of the meeting was funding considerations for land conservation.

Presentations

**Michael Kane, Land Conservation Officer,
Piedmont Environmental Council**

Mr. Kane indicated support for the three-pronged approach to preserve land made up of appropriations to the Virginia Land Conservation Foundation for land preservation, a state and local partnership to make funds available for local purchase of development rights programs, and continued use of the Virginia land preservation tax credit. These three conservation tools have accounted for over 300,000 acres being preserved in just the last 10 years.

Since the enactment of the land preservation tax credit in 2000, the Virginia Outdoors Foundation, an eligible holder of conservation easements granted by the program, has tripled the amount of land it has preserved from 135,000 acres to nearly 400,000 acres. Mr. Kane noted that of the 20 local purchase of development rights programs in effect in the Commonwealth, 19 have been created since 2000. Since 2000, the Virginia Land Conservation Foundation has awarded 84 grants that will ultimately conserve more than 31,000 acres.

Mr. Kane testified that 90% of all easements held by the Virginia Outdoors Foundation include land that has been designated as an ecological core by the Virginia Land Conservation Needs Assessment.

Under the Chesapeake 2000 Agreement, the Commonwealth committed to preserving at least

20% of its portion of the Chesapeake Bay watershed by January 1, 2010. Mr. Kane noted that of the land preserved through the Virginia land preservation tax credit, at least 80% is situated in the Chesapeake Bay watershed.

Mr. Kane pointed out that tourism is a leading industry in Virginia accounting for \$16 billion in expenditures in the Commonwealth annually. Land conservation is key to tourism, because vacationers are attracted to historical sites, parks, and nature preserves. For instance, 34% of visitors to the Commonwealth visited small towns and 28% visited historic sites and monuments. Agriculture and forestry are the top industries in Virginia accounting for \$47 billion in expenditures annually. Agricultural land and forest land are the foundation of these industries. However, between 1992 and 1997, approximately 68,000 acres per year of farmland and forest land were developed for more intensive uses. Mr. Kane made the following recommendations for implementation by the Commonwealth:

- Meet its commitment to preserve 20% of its portion of the Chesapeake Bay watershed by 2010.
- Continue to conserve lands to support its tourism and agriculture and forestry industries.
- Continue to preserve lands that are necessary for public drinking water, parks and trails, scenic landscapes, and diverse natural landscapes and communities.

These goals can be achieved by maximizing the Commonwealth's three-pronged approach to preserve land.

Mr. Kane asked the joint subcommittee to support funding of local purchase of development rights programs at a level of \$30 million in state funds per year over the next 10 years, or a total of \$300 million. He also asked the joint subcommittee to support funding to the Virginia Land Conservation Foundation at the same level, \$30 million in state funds per year over the next 10 years. Increased funding to the Virginia Land Conservation Foundation

Under the Chesapeake 2000 Agreement, the Commonwealth has committed to preserving at least 20% of its portion of the Chesapeake Bay watershed by January 1, 2010.

A speaker noted that the land preservation tax credit program is the most cost-effective and efficient program for conserving land in the Commonwealth, accounting for over 260,000 acres conserved since 2000.

will result in the leveraging of state funds with non-state funds. Increased funding for purchase of development rights programs will present an opportunity to at least double Virginia's conservation funding. In 2007, Virginia committed \$4.25 million to local purchase of development rights programs, yet local governments were ready to match upwards of \$45 million in state funding.

Mr. Kane asked the members to support retaining the land preservation tax credit in its current form. He suggested that if this is not done, it is unlikely that the Commonwealth will be able to meet its commitment under the Chesapeake 2000 Agreement. The tax credit program is the most cost-effective and efficient program for conserving land in the Commonwealth, accounting for over 260,000 acres conserved since 2000.

The issuance of bonds by the Commonwealth to meet the funding objectives described above was also discussed. One advantage of using bonds is that capital is quickly raised, which will allow Virginia's conservation programs to move forward without delay. Data from the Trust for Public Land indicates that 25 statewide bond referendums in the United States for funding land conservation have passed since 1998. Specifically in the Commonwealth, 69% of voters voted for the Commonwealth of Virginia Parks and Natural Areas Bond Act of 2002. Mr. Kane reported the following as the likely costs to the Commonwealth of not funding land conservation:

- The likelihood of not meeting land conservation commitments under the Chesapeake 2000 Agreement.
- The loss of basic inputs for Virginia's agriculture and forestry industries.
- The loss of scenic and historic landscapes that support tourism.
- The costs of degraded watersheds, especially those that are critical for public drinking water.

**Mark Vucci and Kevin Stokes, DLS
Staff Attorneys**

The staff began by reviewing the estimated cost to meet the Commonwealth's commitment of preserving 20% of Virginia's portion of the Chesapeake Bay watershed by January 1, 2010. The cost to achieve this objective is estimated between \$167.4 million and \$278.9 million over the next two years. Assuming a 50/50 cost share with local governments, the Commonwealth and local governments each would be responsible for an additional \$83.7 million to \$139.5 million over

the next two years. Estimates assumed that 111,578 acres would need to be preserved, which is in addition to the number of acres likely to be preserved under current appropriations for land conservation and through conservation easements donated under the land conservation tax credit.

REVIEW OF FUNDING SOURCES

Funding sources that have been previously looked at by the General Assembly for funding land conservation were reviewed. These revenue sources include current or existing sources of revenue, new sources of revenue, a mix of current and new sources of revenue, and bonds. State recordation taxes on home sales and license taxes on insurance premium receipts might have a natural nexus for funding land preservation.

In 2007, state recordation tax revenues totaled \$583 million. Of this amount, \$145 million currently is taken off the top and dedicated under law for transportation purposes. This would leave \$438 million for the funding of other programs and services in the Commonwealth, including land conservation.

State license taxes on insurance companies totaled \$385 million in 2007. Of this amount, \$128 million or one-third is taken off the top and dedicated under law for transportation. This would leave \$257 million for the funding of other programs and services, including land conservation.

Staff indicated there may be a means to capture the unsubscribed or unallocated portion of the \$100 million in tax credits set aside on an annual basis under the land preservation tax credit program. In a particular calendar year, if there is less than \$100 million in new tax credits subscribed or allocated under the tax credit program, the amount of the deficiency could be used to appropriate funds for land conservation.

NEW SOURCES OF REVENUE

Potential new sources of revenue to fund land conservation that had been previously discussed by members of the General Assembly were reviewed, including tipping fees and surcharges on farmowner, homeowner, and commercial multi-peril insurance policies. Staff explained that the issuance of bonds, regardless of the repayment source, would allow the Commonwealth to more quickly generate funds

to meet the Commonwealth's share in any state and local land preservation program.

Staff reported, regarding local sources of funding, that authorizing all counties to impose cigarette taxes and authorizing water and sewer authorities to charge a premium for land conservation are also potential new sources of local revenue that have been previously discussed by the General Assembly.

LAND USE AND ZONING STATUTES

Land use and zoning statutes and legislation that could be used to promote land conservation by limiting development were discussed. HB 1858 for example would have provided that a locality that establishes a purchase of development rights program would be authorized to accept proffers of cash for local purchase of development rights that would be dedicated as easements for conservation, open space, or other conservation purposes.

HB 3202 that became law in 2007 allows certain counties to establish urban transportation service districts and to impose broad impact fees on by-right development on agriculturally zoned land located outside of the urban transportation service district. The impact fees could be assessed for parks, open space, and recreation areas.

Dr. Sheryl D. Bailey, Executive Director Virginia Resources Authority

Dr. Bailey talked about how the Virginia Resources Authority (VRA) could raise funds for land conservation. The mission of VRA is to provide low-interest loans to local governments to finance municipal facilities, equipment, and infrastructure needs, including airports, transportation, wastewater, water, solid waste, flood prevention, brownfield remediation, federal facility development, public safety, wireless broadband, and because of new legislation in 2007, land conservation. In 2007, VRA invested over \$377.5 million, impacting 51 communities. Since its inception, the agency has funded more than 750 projects across Virginia. Financing options offered by VRA include revolving loan funds, pooled financing programs, and equipment and term financing.

The VRA could establish a revolving loan fund for land conservation projects and then combine an initial capital investment in the revolving loan fund with an existing pooled financing program to maximize impact. She explained that under this approach an initial \$10 million capital investment would generate \$100

million of below-market loans in the first five years and over \$200 million of below-market loans in 20 years. A one-time capital investment would provide long-term sustainable funding for land conservation. Dr. Bailey concluded by stating that existing VRA financing tools can be used to promote land conservation and to expedite land conservation projects by providing timely low-cost financing.

Next Meeting

The next meeting of the joint subcommittee will be held on November 20, 2007, in Richmond.

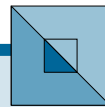
HJR 692/SJR 401

Joint Subcommittee Studying Long-Term Funding Sources for the Purchase of Development Rights to Preserve Open-Space Land and Farmlands

Senator Emmett W. Hanger, Jr., Chair

Mark Vucci, David Rosenberg,
Kevin Stokes, DLS Staff
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Members reviewed funding sources for land conservation previously explored by the General Assembly, including current or new revenue sources or a mix of these sources, bonds, state recordation taxes on home sales, and license taxes on insurance premium receipts.



DLS BULLETIN BOARD

- **Prefiling for the 2008 General Assembly Session begins November 19, 2007.**
- **All requests for drafts of legislation to be prefiled to DLS by 5 p.m. on December 5, 2007.**
- **All requests for drafts of legislation to be prefiled returned for requester's review by midnight December 28, 2007.**

HJR 637: Joint Subcommittee Studying Childhood Obesity in Virginia's Public Schools

October 22, 2007

The joint subcommittee members agreed that the creation of a best practices database, available to all public school divisions, would be a positive approach that would encourage school divisions to take steps to combat the problem of obesity without a state mandate.

The Joint Subcommittee Studying Childhood Obesity in Virginia's Public Schools held its third meeting of the 2007 interim on October 22, 2007, in Richmond with Delegate John O'Bannon as chair.

Guest Speakers

Lynne Fellin, Acting Director of School Nutrition Programs, Department of Education

Ms. Fellin gave a recap of the Governor's Healthy Students Summit which was held in Richmond on September 20, 2007. She described the presentations that were given and spoke about the collaboration that occurred between school officials and their local health counterparts. There were 400 participants involved in the highly successful event, and some who wished to attend had to be turned away. Summaries of presentations and other materials from the summit were provided for members of the joint subcommittee that were unable to attend.

Andrea Early, School Nutrition Program Director, Harrisonburg City Public Schools

Ms. Early presented an overview of how school nutrition programs are run, focusing on the financial aspects of the operations. She used her own school division as an example, telling the members about some of the healthier food choices it has made and providing the costs to implement these choices. Ms. Early discussed the federal and state reimbursement process and explained why districts with more students eligible for free and reduced-cost meals are often better able to avoid the financial setbacks that can occur when menu changes are made.

Other State Initiatives

Staff then gave a presentation detailing initiatives in other states designed to combat childhood obesity. The presentation was divided into four main areas:

- Wellness policy implementation.
- Data collection and reporting.
- Physical education.
- Nutrition.

The focus of the presentation was to provide the joint subcommittee with information and ideas for possible legislation during the 2008 Session.

Discussion

The joint subcommittee then spent time discussing possible legislation. In the area of wellness policy implementation, some representatives of the education community stated that there is already sufficient follow-up on the state level on the issue and legislation is unnecessary. Federally required policies are already being submitted to the Department of Education, which will analyze the data.

Several members expressed embarrassment at realizing that Virginia was the only state other than Louisiana, which was in the midst of the Katrina disaster, that did not participate in the 2005 CDC survey on youth behaviors. Other members stated that steps were already being taken to involve Virginia in such a survey, without legislation. Several members expressed an interest in creating a best practices database, which would be available for all local school divisions to access with information on successful programs from various school divisions. The joint subcommittee saw this as a positive approach that would encourage school divisions to take steps to combat the problem of obesity without a state mandate.

In the area of physical activity, the members felt they really needed more information on what is currently being done across the state before discussing specific legislative proposals. The members asked that more specific information on physical education requirements and how they are being implemented by school districts be presented at the final meeting in November.

The members were all sensitive to the fact that any new nutrition mandates could place a serious financial burden on some school divisions; one suggested that any requirements should be accompanied by the appropriate resources. Members seemed to agree that it would be feasible to close the gap between the breakfast and lunch periods, when currently, competitive foods may be sold. They also expressed support for the Governor's Scorecard Program, and anything that could be done to encourage participation in the program.

Public Comment

Chuck Duvall, of the Virginia Beverage Association, gave a brief update on the effects of removing soft drinks from public schools. Faith Hecht, of Richmond Sports Backers, also spoke briefly about her organization and some of its programs aimed at getting kids to be more active.

Next Meeting

The joint subcommittee agreed to meet again in November to look more closely at physical education requirements in the Commonwealth and to finalize any legislative proposals.

HJR 637

Joint Subcommittee Studying Childhood Obesity

Delegate John O'Bannon III, Chair

Jessica Eades and Nikki Seeds Cheuk, DLS Staff
(804) 786-3591

study website

<http://dls.state.va.us/childobesity.htm>

The joint subcommittee members felt they needed more information on what is currently being done across the state in the area of physical activity before discussing specific legislative proposals.

Study Meeting Calendar for Nov '07

<i>Study</i>	<i>Meeting Information</i>	<i>DLS Staff</i>
Childhood Obesity in Public Schools	10:00 a.m., Tuesday, November 13, 2007 General Assembly Bldg, House Room D	Jessica Eades, Nikki Seeds Cheuk
Recruitment and Retainment of Fire and Rescue Volunteers	10:00 a.m., Wednesday, November 14, 2007 General Assembly Bldg, House Room D	Joan Putney
Issues Relating to Stem Cell Research	1:00 p.m., Wednesday, November 14, 2007 General Assembly Bldg, House Room D	Jessica Eades, Sarah Stanton
Services for At-Risk Youth and Families	9:00 a.m., Tuesday, November 20, 2007 General Assembly Bldg, Senate Room A	Sarah Stanton
Science and Technology in Higher Education	1:00 p.m., Tuesday, November 20, 2007 State Capitol, House Room 1	Lisa Wallmeyer, Jessica Eades
Open-Space Land and Farmland Preservation	1:00 p.m., Tuesday, November 20, 2007 State Capitol, House Room 2	Mark Vucci, David Rosenberg, Kevin Stokes
Revision Curriculum for Driver Training Programs	10:00 a.m., Tuesday, November 27, 2007 General Assembly Bldg, 3rd Floor East Conference Room	Nikki Seeds Cheuk
Science, Math and Technology Education	10:00 a.m., Wednesday, November 28, 2007 General Assembly Bldg, House Room C	Patrick Cushing, Nikki Seeds Cheuk

Meetings may be added at anytime, so please check the General Assembly and DLS websites for updates.

HJR 25 (2006): Joint Subcommittee Studying Science, Technology and Math Education

October 25, 2007

During the meeting, members of the joint subcommittee and members of the public had the opportunity to participate in an education outreach program sponsored by Micron Technologies.

The Joint Subcommittee Studying Science, Technology and Math Education in the Commonwealth held its third meeting of the 2007 interim at Mountain View Elementary School on October 25, 2007, with Delegate John Cosgrove as chair.

During the meeting, members of the joint subcommittee and members of the public viewed and participated in an education outreach program sponsored by Micron Technologies. The program involved four Micron employees teaching students about the different states of matter and a process known as sublimation, which is the transformation of a solid to a gas.

After viewing the Micron lessons, members of the joint subcommittee were able to view a math class utilizing the investigations math process. During the lesson, students were learning how to add doubles, such as 64 and 64, using several different procedures. After an introduction by the teacher, students were then able to participate in three different activities to help reinforce the material.

Guest Speakers

George Cushman, Executive Director, Hispanic Youth Symposium (HYS)

Mr. Cushman reviewed his organization's efforts to encourage Hispanic students to enter college. Using a cultural centric approach, HYS is achieving a 90% retention level in college for students that participate in its program. Of the students entering college, Mr. Cushman identified 40% that were majoring in a STEM related field. Further information and the presentation are available on the study website.

Dr. Cannaday, Virginia Department of Education (DOE), Superintendent of Public Instruction

Dr. Cannaday led the final discussion and presented an overview of current and proposed initiatives at the DOE to promote STEM education. His remarks can be accessed on the study website.

Three particular efforts directly applicable to the work of the HJR 25 joint subcommittee were reviewed. The DOE's efforts to enable

high school students to seek industry certifications by allowing students to pursue these certifications while attending school was discussed. The benefit to students comes not only through achieving a valuable certification, but also witnessing first-hand the applicability of the skills they are learning in school. Dr. Cannaday also outlined efforts underway to establish technical diplomas that would allow students to achieve a higher level diploma in career and technical education fields.

The Governor's \$500,000 grant from the National Governor's Association to establish Career and Technical Academies was also discussed. Dr. Cannaday stressed the need to continue to promote career and technical education programs to provide the needed pipeline of technicians and technologists for the Commonwealth's high-tech industries.

Work Plan

Delegate Cosgrove concluded the meeting by outlining a final list of recommendations compiled by staff, which he requested be submitted to the members for further review and revision. The joint subcommittee will formulate a final draft list of recommendations that will be made available to the public on or about November 19, 2007.

Next Meeting

The joint subcommittee will hold its final meeting in late November to discuss possible recommendations for legislation by the 2008 General Assembly. Meeting information will be posted on the study website when available.

HJR 25

*Joint Subcommittee to Study
Science, Math &
Technology Education*

Delegate John A. Cosgrove, Chair

Nikki Seeds Cheuk and Patrick Cushing, DLS Staff
(804) 786-3591

study website

<http://dls.state.va.us/TechEd.htm>

COMMISSIONS and COUNCILS

Legislative Commissions and Advisory Councils are also staffed or monitored by Division of Legislative Services and some, such as FOIA and JCOTS and others that are featured in the Legislative Record, have independent, comprehensive websites that contain a wealth of information regarding research, proposed legislation, and ongoing activities and scheduled workshops. Be sure to visit each respective Commission and Council website for more detailed information.

Electric Utility Restructuring Commission HJR 686 Special Subcommittee 10-3-2007

The Commission on Electric Utility Restructuring established a special subcommittee at its September meeting to explore the efficacy of a voluntary program to encourage the production of electricity from renewable resources. The special subcommittee is chaired by Delegate Plum, the patron of HJR 686.

HJR 686 cites North Carolina's NC GreenPower program as an example of an initiative that may offer an efficient, voluntary way to encourage the use of electricity generated from renewable resources. The focus of the special subcommittee's work will be analyzing whether the NC GreenPower initiative should be the model for a similar program in Virginia.

NC GREENPOWER PROGRAM

Maggy Inman and Vicky McCann of NC GreenPower briefed the subcommittee on North Carolina's voluntary renewable energy program. NC GreenPower is a nonstock, nonprofit 501(c)(3) corporation formed to administer the NC GreenPower program. The goal of the NC GreenPower program is to supplement the state's existing power supply with electricity generated from renewable resources. The program uses financial contributions made by North Carolina citizens and businesses to purchase the "green" attributes of qualifying renewable electricity.

NC GreenPower provides producers from renewable sources with a premium over and above the payments they receive from their local utility for power added to the grid. The NC GreenPower payments supplement the payments that the generators receive from the electric utility to which they sell the power at rates under its avoided cost tariff. Because the cost of power from the renewable sources is higher than power produced from traditional resources, the NC GreenPower payments incentive, which bridges the gap between the utility's avoided cost payments and the amount needed to make the renewable energy viable, is a valuable tool for the development of renewable generation. The largest premium, at 18 cents per kWh, is paid for the "green" attributes of power from solar photovoltaic facilities, and the average premium payment is about one cent per kWh.

The program was developed pursuant to a proceeding of that state's Utilities Commission that asked Advanced Energy, a nonprofit corporation formed by the Utilities Commission, to investigate the establishment of a voluntary "green" check off program. The NC GreenPower program was developed by Advanced Energy, with stakeholder participation, over a period of two years. The plan provides that Advanced Energy would establish an independent corporation (NC GreenPower) to administer the program. NC GreenPower has no employees; rather, Advanced Energy provides staffing for NC GreenPower.

A typical contribution of \$4 per month adds one block of 100 kilowatt hours of green energy to North Carolina's power supply. Large-volume users - usually from the corporate sector - may contribute towards 100 or more blocks at a rate of \$2.50 per block with a different energy mix. The contributions are tax deductible to the extent permitted by law. Participants generally commit to buy the selected number of blocks of power, the cost of which is then added to each month's utility bill for a minimum period of 12 months. Approximately 25 percent of the funds contributed are used for administrative and marketing costs. The balance of the money collected is paid to the producers of renewable power.

The program currently has nearly 12,000 monthly contributors, and since its inception over \$2 million has been contributed to the program. The program has entered into agreements with over 90 producers of electricity from renewable sources. The rate of growth in the program over each of the past two years has exceeded 20 percent.

PERSPECTIVE OF DOMINION

David Koogler of Dominion noted that Dominion, which is North Carolina's third largest investor-owned utility, participates in the NC GreenPower program. Over the past four years, Dominion has sought to promote participation in the program by placing articles about the program in its monthly customer newsletter, providing an annual customer bill insert, placing stories about the program with media in its service area, and encouraging participation at meetings of local civic clubs. The utility also provides administrative assistance to the program at no charge. Such assistance includes billing participating customers and remitting all contributions directly to NC GreenPower.

Dominion intends to seek State Corporation Commission approval next year for a "green" tariff that will be available to all customer classes. The tariff will be intended to address the provisions of the 2007 re-regulation legislation that gives any customer the option to buy from any competitive supplier electricity generated 100 percent from renewable resources, if the customer's incumbent utility does not offer an approved tariff for electricity that is generated 100 percent from renewable resources. Koogler expressed confidence that if the General Assembly decides that Virginia should have a renewable portfolio standard, green pricing tariffs, and an independently administered voluntary green power program similar to the NC GreenPower program, his company can make it work.

**COMMISSION ON ELECTRIC UTILITY RESTRUCTURING
SPECIAL SUBCOMMITTEE ON HJR 686**

THE HONORABLE KENNETH R. PLUM,
SUBCOMMITTEE CHAIR

Frank Munyan, Commission Staff Attorney

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Commission & Council Meetings for Nov - Dec '07

Civil War Commission Workgroup 3 - Education	1:00 p.m., Monday, November 26, 2007 General Assembly Bldg, 6th floor Conference Room	Cheryl Jackson, Brenda Edwards
Civil War Commission Executive Committee	3:00 p.m., Monday, November 26, 2007 General Assembly Bldg, 6th floor Conference Room	Cheryl Jackson, Brenda Edwards
Civil War Commission	2:00 p.m., Wednesday, November 28, 2007 Virginia Historical Society	Cheryl Jackson, Brenda Edwards
Martin Luther King Jr. Commission Special Subcommittee on US Court Decision	10:00 a.m., November 28, 2007 General Assembly Bldg, House Room C	Brenda Edwards
Martin Luther King Jr. Commission Abraham Lincoln Bicentennial Subcommittee	1:00 p.m., November 28, 2007 General Assembly Bldg, Room TBA	Brenda Edwards
Freedom of Information Advisory Council	1:00 p.m., Monday, December 3, 2007 General Assembly Bldg, House Room D	Maria Everett, Alan Gernhardt
Civil War Commission Workgroup 2 - Signature Events	1:00 p.m., Monday, December 3, 2007 General Assembly Bldg, 6th floor Conference Room	Cheryl Jackson, Brenda Edwards
Civil War Commission Workgroup 1 - Coordination	1:00 p.m., Wednesday, December 5, 2007 General Assembly Bldg, 6th floor Conference Room	Cheryl Jackson, Brenda Edwards

Meetings may be added at anytime, so please check the General Assembly and DLS websites for updates.

Open Education Resources Advisory Committee 1001-2007

The Open Education Resources Advisory Committee met on October 1, 2007, at the Virginia Information Technologies Agency (VITA) in Chester, Virginia, with Delegate Chris Peace as chair. The JCOTS committee was established to study the textbook purchasing policies in the Commonwealth and study the use of open education resources to both lower the cost of textbooks and improve the quality of learning in the K-12 environment.

The staff updated the committee on open education resources (OER) legislation in other states and the One Laptop Per Child Program (OLPC).

GUEST SPEAKERS

TOM BARBER, VICE PRESIDENT OF CUSTOMIZATION AND SPECIAL MARKETS - HOLT, RINEHART, AND WINSTON

Tom Barber of Holt, Rinehart, and Winston, an education publishing company, provided an overview of the progressing textbook market from a publisher's perspective. The advisory committee was particularly interested in Mr. Barber's opinions on textbook purchasing policies in other states. He stated that California is one of the more regulated states, but Florida and Texas have emerged as leaders in textbook purchasing/utilization policies, but individual localities such as Henrico County in Virginia can emerge as leaders.

The members were interested in the feasibility of Holt, Rinehart, and Winston offering the option of printing select chapters of materials at a reduced cost. Mr. Barber responded that he could envision this type of option for the middle grade sciences at some point in the future, but it was not an option at present.

Texas is a leader because the state adopts all textbooks for public education in one year. This large purchasing contract controls the market and publishers respond more quickly to the demands and needs of the Texas school system. Another advantage is that Texas textbook funding is based on purchasing per textbook instead of per student.

GAVIN BAKER, TECHNOLOGY CONSULTANT

Mr. Baker discussed the definition of open access and the open access movement on the internet, as well as provided the members with an overview of open access journals as open education resources that may be used by the public schools as learning materials in the future. The

presentation and handout are available on the JCOTS website.

DISCUSSION

Delegate Peace asked a representative from Pearson Education, Inc., in attendance if his company had made any efforts to offer more adaptive learning materials in Virginia. The representative stated that Pearson Education, Inc., proposed the offering of six years of consumable class lessons, but the Virginia Board of Education stated that the this arrangement would not be allowed under state Code, because the materials would not last for six years, which is the requirement for textbook contracts.

The members discussed the need for infrastructure improvements and equipment upgrades in many public school classrooms, before the state could adopt many of the open resources discussed during the meeting.

It was suggested that a state depository be created at a Virginia university consisting of teaching materials and lessons developed at K-12 public schools. The project could be tested with a pilot program.

Delegate Peace asked that staff research the current state Code regarding purchasing textbooks to determine if the lack of a definition for "textbook" restricted a locality from adopting electronic materials that could substitute for traditional textbooks.

PUBLIC COMMENT

There was time allotted for public comment on the agenda, but there was none received.

Aerospace Advisory Committee 1009-2007

The JCOTS Aerospace Meeting was held on October 9, 2007, at the NASA Visitor Center, Wallop's Island with Delegate John Cosgrove as chair. The meeting was open to the public and featured several guest speakers.

PRESENTATIONS

WAYNE WOODHAM, MID-ATLANTIC INSTITUTE OF SPACE AND TECHNOLOGY (MIST)

Wayne Woodham provided the advisory committee with an overview of the Mid-Atlantic Institute of Space and Technology (PowerPoint available on JCOTS website). Mr. Woodham identified three priorities for MIST: autonomous vehicles, operationally responsive space, and commercial launch operations. With access to restricted airspace, especially over the coastal landscape, Mr. Woodham hopes to take advantage of the recent interest in developing and testing unmanned aerial vehicles.

After the presentation the advisory committee discussed the status of the MOU entered by the governor's of Virginia and Maryland in 2003. The advisory committee is interested in re-establishing some form of formal relationship with Maryland.

**BOB MARSHALL, VIRGINIA SPACE
FLIGHT ACADEMY (VSFA)**

Bob Marshall provided an overview of the Virginia Space Flight Academy (PowerPoint available on JCOTS website). Mr. Marshall and the advisory committee briefly discussed the need for an additional marketing staff member for the Academy to help in recruiting campers.

**DR. BURTON LEE, MANAGING DIRECTOR, SPACE
ANGELS NETWORK, MANAGING PARTNER, INNOVARIUM
VENTURES: THE SPACE FLORIDA MODEL AND
RECOMMENDED LEGISLATIVE CHANGES TO THE
VIRGINIA COMMERCIAL SPACEFLIGHT AUTHORITY.**

Dr. Burton Lee provided an overview of space activities in several states as well as a comprehensive review of Florida's model and recommended changes to Virginia's Commercial Spaceflight Authority. A list of formal recommendations can be found in Dr. Lee's presentation materials, which are available on the JCOT's website.

PUBLIC COMMENT

Designated time was reserved for members of the public to express their views relating to the Aerospace Advisory Committee and Aerospace policy in the Commonwealth, however, no public comment was received.

WORK PLAN AND NEXT MEETING

Delegate Cosgrove requested the advisory committee meet one final time for the 2007 interim to review potential recommendations for legislation during the 2008 General Assembly Session.



**THE HONORABLE JOE T. MAY, CHAIR
THE HONORABLE JOHN C. WATKINS, VICE CHAIR**

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REGULATORY ALERT

A CONVENIENT GUIDE TO REGULATORY ACTIVITY IN THE COMMONWEALTH

The Regulatory Alert is intended to assist General Assembly members as they keep up with the myriad regulations being proposed by agencies in the Commonwealth. The goal of this project is to provide a timely, simple, and accurate summary of the rules that are being proposed by agencies, boards, and commissions. Highlighting regulations when they are published as "proposed regulations" gives General Assembly members notice that the critical public participation phase of the rulemaking process is well underway. It is during the public participation process that the questions of an Assembly member or constituent may be most effectively communicated to the agency and examined by the individuals crafting the regulatory proposal.

The Regulatory Alert is not intended to be a substitute for the comprehensive information on agency rulemaking activity that is currently published biweekly in the *Virginia Register of Regulations* or the notification services offered by the Regulatory Town Hall website maintained by the Department of Planning and Budget. It is hoped that the Legislative Record will assist all members as they monitor the development, modification, and repeal of administrative rules in the Commonwealth. Access the *Virginia Register of Regulations* online at <http://legis.state.va.us/codecomm/register/regindex.htm> or contact epalen@leg.state.va.us or the Code Commission staff at (804) 786-3591 for further information.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

4VAC50-60. Virginia Stormwater Management Program (VSMP) Permit Regulations (amending 4VAC50-60-10, 4VAC50-60-1200 through 4VAC50-60-1240).

Public hearings will be held on December 4, 2007 at 1:30 p.m. in Roanoke, VA and December 6, 2007 at 1:30 p.m. in Richmond, VA. Written public comments may be submitted to the Virginia Soil and Water Conservation Board until 5 p.m. on December 14, 2007.

This regulatory action amends the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (small MS4s). This action is authorized under the federal Clean Water Act (33 USC §1251 et seq.) and the Virginia Stormwater Management Act (§10.1-603.1 et seq. of the Code of Virginia), and is necessary to update and reissue the general permit, as the current permit expires on December 9, 2007 (coverage under the current permit will be administratively continued until the proposed permit becomes effective provided that current coverage holders submit a registration statement by December 7, 2007). The proposed amendments serve to advance water quality protections to the maximum extent practicable, forward water quality improvements where a wasteload allocation from a TMDL has been assigned to an MS4 prior to the effective date of the permit (unless reopened), provide greater clarity to facility operators as how to administer and improve/advance their MS4 programs, allow for greater consistency in program application between facility operators, and specify sampling protocols and necessary reporting requirements where applicable.

For additional information please contact David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, telephone (804) 786-2291, fax (804) 786-6141, or email david.dowling@dcr.virginia.gov.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

9VAC25-640. Aboveground Storage Tank and Pipeline Facility Financial Responsibility Requirements (amending 9VAC25-640-10, 9VAC25-640-20, 9VAC25-640-30, 9VAC25-640-50, 9VAC25-640-70 through 9VAC25-640-120, 9VAC25-640-150 through 9VAC25-640-190, 9VAC25-640-210, 9VAC25-640-220, 9VAC25-640-230, 9VAC25-640-250, Appendices I through IX; repealing 9VAC25-640-130).

A public hearing will be held on November 15, 2007, at 1 p.m. at the Department of Environmental Quality, Richmond, VA. Public comments may be submitted to the State Water Control Board until 5 p.m. on December 14, 2007.

The regulation requires operators of regulated petroleum aboveground storage tanks (ASTs) and pipeline facilities to demonstrate they have the financial resources available to pay for the costs of containment and cleanup in the event of a release from their tanks. The proposed amendments eliminate the standby trust requirement for third-party mechanisms such as letters of credit and surety bonds, which would have the effect of reducing operators' cost of compliance without affecting the stringency of the current financial responsibility requirements. Also, several administrative changes are proposed to the regulation that do not affect the regulatory requirements.

For additional information please contact Leslie D. Beckwith, Department of Environmental Quality, telephone (804) 698-4123 or email ldbeckwith@deq.virginia.gov.

**TITLE 10. FINANCE AND
FINANCIAL INSTITUTIONS**

STATE CORPORATION COMMISSION

**10VAC5-40. Credit Unions (adding 10VAC5-40-5,
10VAC5-40-60).**

Public comments may be submitted to the State Corporation Commission until 5 p.m. on December 14, 2007. A public hearing will be scheduled upon request.

The proposed regulation establishes the terms and conditions under which state-chartered credit unions may invest in or make loans to credit union service organizations.

For additional information please contact George Latham, Deputy Commissioner, BFI, State Corporation Commission, telephone (804) 371-9698, fax (804) 371-9416, or email george.latham@scc.virginia.gov.

**TITLE 18. PROFESSIONAL AND OCCUPA-
TIONAL LICENSING**

BOARD OF SOCIAL WORK

18VAC140-20. Regulations Governing the Practice of Social Work (amending 18VAC140-20-10, 18VAC140-20-40, 18VAC140-20-50, 18VAC140-20-60, 18VAC140-20-105, 18VAC140-20-150, 18VAC140-20-160; adding 18VAC140-20-51; repealing 18VAC140-20-140).

A public hearing will be held on November 14, 2007, at 10 a.m. in Richmond, VA. Written public comment may be submitted to the Board of Social Work until 5 pm o December 28, 2007.

The proposed amendments (i) require registration of supervision by persons preparing for licensure in social work, regardless of the practice setting, to allow for group supervision, and specify the professional training necessary for a licensee to serve as a supervisor; (ii) allow a bachelor's degree graduate to take the examination for a licensed social worker prior to completing 3,000 hours of work experience; and (iii) revise the standards of professional conduct to update the language, address conduct seen in disciplinary cases, and provide consistency with other behavioral health professions.

For more information please contact Evelyn B. Brown, Executive Director, Board of Social Work, telephone (804) 367-4488, fax (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

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