



Session Nears Closure: HB4001, Pilot Schools Emerge as Major Legislation

House Bill 4001, the 2004 session omnibus bill, which relates to a number of legislative topics including accountability, is moving toward session adoption as is a bill that would create a pilot demonstration schools project to serve disadvantaged, minority and under-achieving students. That bill is **HB4669**. (For a listing of **HB4001** provisions, refer to article on page 5 and the Administrator’s Perspective on page 6.)

No Pay Increases

Meanwhile, the Senate has made clear that school employee pay raises – indeed any state pay hikes – are off the table this year, including a House-recommended \$53,900 increase in the statutory compensation ceiling granted the state superintendent of schools. At a Tuesday (March 9) SEC meeting, Chairman Robert H. Plymale told members, “We’re not raising the (state) superintendent’s salary in case anyone wants to know.”

The upper chamber’s posture on salaries came as a result of a Monday caucus of the Senate’s 24 Democrats. In discussing the caucus, several senators said they determined it would be fiscally irresponsible to grant increases, given projections of budget short-

falls totaling nearly \$1.4 billion over the next six years.

Following the caucus, Senate President Earl Ray Tomblin (D-Logan) told several news reporters that the Senate, at the beginning of the legislative session, had raised concerns about pay increases, which the House had recommended for judges and teachers. “The (Senate’s) decision was, we couldn’t afford to give them (pay increases) to everyone, so we wouldn’t give them to anyone,” Tomblin told the *Charleston Gazette*.

According to several education lobbyists, the Senate is emphatic about the raises. *The Charleston Gazette* quotes W. Va. Federation of Teachers Vice President Bob Brown and WVFT President Judy Hale as saying they had met with Tomblin, who indicated the Senate “could not change its position this session.”

Pension Plans

Senators also say they won’t consider changes in employee pension plans this session, meaning efforts to merge the state’s two school employee retirement systems may be dead. That was the

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Overview

STATS

Day of Session:	58
Days Remaining:	2
Bills Introduced (not including House carryover bills):	2118
Education Bills (WVSBA Count):	427

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QUOTE

“We just don’t have any money. We’re just trying to squeeze by.” – *Senate Finance Chairman Walt Helmick (D-Pocahontas) discussing Senate Democrats’ decision to not support teachers’ and judges’ pay raises this legislative session. (House legislation would have provided the increases.)*

Stewart Stays to ‘06

Analysis by Howard M. O’Cull

The W. Va. Board of Education, meeting Wednesday (March 10) in Charleston has agreed to Dr. David Stewart’s recommendation that he stay in his position as state superintendent of schools until June 2006.

The WVBE’s decision was unanimous.

Stewart shocked the board – and education community – when he announced about a month ago that he was resigning for “personal reasons.” (Stewart has never veered from that pronouncement, despite some press shadings to the contrary.) House Education Chairman Jerry Mezzatesta (D-Hampshire) led a very public effort to convince Stewart to remain in the position, including an effort to increase compensation for the position from the current \$146,100 to \$200,000. While the proposed pay hike appears dead, Mezzatesta and other legislators were able to demonstrate support for Stewart, a refrain also echoed by those in the public education community.

According to various W. Va. Department of Education sources, Stewart plans to use the next two years to concentrate on developing and refining school improvement strategies. The “added” two years will enhance his ability to make what some WVDE officials say

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intent of **HB4545**, which would have shifted about 22,000 teachers and school service personnel from the state's Defined Contribution Retirement plan, which was established in 1990, into the underfunded Teachers' Retirement System.

Proponents contend that shifting the 22,000 defined contribution participants, and that plan's \$500 million in assets, into the TRS would speed up a 40-year plan to eliminate a \$4 billion hole in the plan, and ultimately would save the state \$1.9 billion.

Some legislators are concerned, however, that the state would become responsible for those retirees' pensions—in addition to the TRS unfunded liability – and other legislators are wary of legal problems with the plan.

The House has hopes of keeping the measure alive, however, amending its provisions into small Senate bills making technical changes in pension laws.

The bill is pending in the Senate Pensions Committee.

Services Fee

Finally, a bill that would raise about \$98.1 million for public education, swiftly adopted in the House Education Committee Monday, has been referred to the House Finance Committee. While the bill's fate isn't known, some supporters say that it sends a message that public education will demand fuller funding in the future.

The bill would have removed the sales tax exemption for services provided by lawyers, Certified Public Accountants, engineers and related professionals. That provision was amended into **Senate Bill 196** relating to Instructional Support and Enhancement (ISE) days. The bill was referred to the House Finance Committee. Del. Kelly Soboyna (D-Cabell) sought a ruling from HEC Chairman Jerry Mezzatesta (D-Hampshire) as to the amendment being germane,

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W.Va. School Boards Association
PO Box 1008
Charleston, WV 25324
(304) 346-0571
(304) 346-0572 fax

WVSBA.ORG

William J. Raglin (Kanawha), President
wjraglin@charter.net

Howard M. O'Cull, Ed. D., Executive Director, Editor
hocull@wvsba.org

Shirley M. Davidson, Administrative Assistant
sdavidson@wvsba.org

with Mezzatesta responding, "Anything related to an instructional day has a cost to it. This provides a funding mechanism to pay for that."

In what is seen as a "message" bill, the HEC, backed by a House clerk's office ruling, inserting language in a Senate bill that would ban lawsuits filed against insurance companies by non-policyholders. According to Mezzatesta, these third-party cases allege insurers fail to resolve claims in good faith, and have been a target of the insurance lobby during the session.

Mezzatesta commented on passage of the amendment, saying, "I've looked at this. I've studied it. It does seem to impact the assets of (higher education institutions)." Del. Mary Poling (D-Barbour) had requested that the House clerk make an interpretation of the amendment's germaneness.

Several education interest group representatives say that while they support the measure there is no guarantee the collected funds would end up in education, and possibly would be used to augment future budgetary revenue gaps.

The House had adopted a related bill earlier in the session, but it is languishing in the Senate Finance Committee.

SB196 is pending in the House Finance Committee.

Pilot Program

The Senate Tuesday amended **HB4669** to say that the state superintendent of schools may select three public elementary or middle schools with "significant enrollments of disadvantaged, minority and under-achieving students in each county in which the number of African American students is five percent or more of the total second month enrollment."

The bill also was amended to require annual reportage to the Legislature about program results. Sen. Donna J. Boley (R-Pleasants) proposed that amendment.

According to Plymale, the bill's provisions would be applicable to schools in 10 counties.

There reportedly is some confusion as to the import of the Senate's amendment. Bill sponsors say that it would allow superintendents and school boards in the 10 counties mentioned above to "opt-into" the program. Reportedly, the Berkeley County Schools Superintendent has expressed an interest in the program, as have other superintendents, according to WVDE officials.

The bill was amended yesterday by Sen. H. Truman Chafin (D-Mingo) to "require every county board to implement a dress code requiring students to wear a school uniform." Currently, county boards *may* require student uniforms.

For details regarding the bill, see Issue 15 of *The Legislature*.

Other SEC Action

In other action Tuesday, the SEC:

- Adopted a House-passed bill permitting students to self-administer asthma medication. The bill stipulates several conditions, including written parental authorization. The medical care provider also must supply a written statement on appropriate use of the medication, and the school nurse or medical care provider must have made an assessment to determine if the student understands the use and can administer the medicine properly. Additionally, parents must sign a statement limiting the liability of the county board, private school and school employees. Schools must keep information that has been provided on file in the office of the school nurse or school admin-

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- istrator. The authorization must be renewed annually. The W. Va. Board of Education is to promulgate rules to implement the statute. The bill is **HB4271**. That bill is on Senate third reading today.
- Approved a bill – **HB4297** – that would allow the county superintendent, with board approval, to designate the sites where school service personnel competency testing can occur. Current law stipulates that the testing must occur at county vocational schools. This bill would remove that requirement. According to committee discussion, these locations may prove inconvenient for some classes of service personnel. That bill is on Senate third reading today.
 - Concurred with a House-passed bill that grants county boards 90 days in which to publish year-end financial statements. The bill also raises from \$50 to \$250 the threshold for reporting the names of companies or persons who receive money from the county board. The bill is **HB4478**. That bill is on Senate third reading today.
 - Okayed **HB4576**, a measure that would establish a voluntary check-off on state income tax returns for taxpayers to donate to family literacy programs. The check-off provision would expire in 2009. The WVDE is required to develop rules regarding the program. Funds are to be used to provide state grants to schools and public libraries to implement family literacy programs. There are other provisions. That bill is on Senate second reading with a reference first to the SFC.
 - Adopted **HB2268**. That measure relates to substitute teachers, addressing their critical needs and shortage. An amendment that would have cost counties about \$5 million, relating to providing these employees various benefits, was removed, according to Plymale. Sen. Edwin J. Bowman (D-Hancock) had proposed the amendment. The bill has a provision stating that when a retired teacher is employed as a substitute to fill a vacant position, the county board must continue to post the vacant position until it is filled with a regularly-employed teacher. Additionally, the bill gives those individuals who are seeking to become teachers in areas of “critical need and shortage” preference for a state-sponsored teacher scholarship. That bill is on Senate third reading.
 - Agreed to a House-passed bill that would create two new optional classes for school service personnel – Administrative Assistant and Cook IV, both of which would be paid from local funds. The bill is **HB4738**. Administrative assistants would be paid Pay Grade “H,” the highest of the service personnel pay grades, and Cook IVs would be paid Pay Grade “D.” That bill is on Senate second reading with a reference first to the SFC.
- The committee is expected to meet today to consider a bill relating to licensure revocation. According to Plymale, this may be the group’s last meeting of the year.

The House is expected to concur in most Senate bill changes, especially **HB4001**, so that the measures won’t go to a conference committee comprised of members of both houses.

In Senate Finance Committee action yesterday (March 10), the SFC amended a bill regarding priority for course instruction in Grades K-2 to include a section stating that English is the official state language. The Senate approved a measure earlier in the session making that declaration, but it has yet to be considered by the House

of Delegates.

Jeanne Moore, a WVDE retiree, said Wednesday that art and music teachers will fight the bill when it goes to the full Senate.

Also refer to article concerning **HB4601**, which relates to the School Building Authority of West Virginia and a freeze on bus replacement for one year. The article is included on page 4.

Meanwhile, a major higher education bill has been approved by a House/Senate conference committee. That bill would create a community and technical college system, and the latter relates to granting of university status to W. Va. State College, Concord and Shepherd Colleges. The bill is **SB448**.

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will be sweeping changes in public education standards and accountability.

Additionally, with budgetary dollars becoming tighter, Stewart, whose background is in school finance, may be able to navigate the public educational system through what are certain to be calls for reduced education spending.

Finally, the public response to Stewart’s leaving has helped solidify his position with the W. Va. Board of Education, illustrating to the Board that he enjoys a broad base of support from legislators and public education interest groups – just the type support that may be necessary to make major changes in educational philosophy regarding school improvement.

— *O’Cull is W. Va. School Boards Association executive director.*

Wisdom

The Ox And The Frog

“An ox drinking at a pool trod on a brood of young frogs, crushing one of them to death. The mother came up and, noticing one of her sons missing, asked his brothers what had become of him. ‘He is dead,’ said one of the frogs. ‘Just now a huge beast with four big feet came to the pool and crushed him.’ The mother frog, puffing herself out, inquired, ‘Big? He can’t be bigger than I.’ ‘Don’t’ bother to puff yourself out, Mother,’ said her son. ‘Even if you were to burst yourself, you wouldn’t be a fraction of his size.’”

Moral: *Men are ruined by attempting a greatness at which they have no chance.*

— *The Fables of Aesop. Book-of-the-Month Club, 1995.*

Bill rewrites SBA Codes

One Year Freeze Placed on Bus Replacement

House Bill 4601, which had included a raise in increment pay for about 13,000 teachers when it passed the House, has been amended by the Senate to remove those provisions. The Senate also has amended the bill so that \$19 million in School Building Authority of West Virginia funds will be captured, rather than \$46 million as determined by the House. The Senate also removed language that would have effectively given the Legislature greater discretion in saying how some SBA dollars would be spent in the future. The \$19 million is from SBA “pay-as-you-go” funding, which is derived from state Lottery proceeds.

The bill also would defer school bus replacement for one year, a move that has drawn the ire of former Del. Arnold Ryan (D-Summers) who has been at the Capitol asking legislators to vote against that bill provision. He has raised concerns, as have some legislators, about having older model buses used in transporting students, especially in rural counties and those with rough terrain.

In a letter to legislators, W. Va. Department of Education transportation officials signed off on the one year moratorium relating to bus replacement. Ryan questions

the wisdom of that decision, saying county transportation directors, for the most part, also oppose the WVDE stance.

The Senate bill does contain language stating that SBA projects are to be evaluated by the agency and that the agency will “return to each county submitting a project proposal an explanation of the evaluative factors underlying the decision of the Authority to fund or not to fund the project.”

Additionally, the proposal rewrites several sections of statute relating to the SBA, placing them in a more defined location in Code. The Senate rewrote some of that language. House Education Committee officials are reviewing the language to see if they will concur with Senate changes, according to HEC staff.

For more information about the original House legislation, refer to Issue 15 of *The Legislature*, which has the changes made by the Senate Education Committee.

Ryan is a candidate for the Legislature from a district that includes Raleigh and Summers County. Del. Virginia Mahan (D-Summers) currently represents the district. Ryan last served in the Legislature in the early 1990s.

Looking Back...

As the 1994 regular legislative session was drawing to a close, the W. Va. School Boards Association, working with representatives of the Kanawha County Teachers Association and a member of the Kanawha County Board of Education, were successful in having a bill pulled from the Senate agenda that would have required the Kanawha County Commission to redistrict the county into five magisterial districts. Kanawha board members would have been elected from those districts rather than the county at large. Then Sen. James Humphreys (D-Kanawha) said the bill was introduced on behest of constituents in the Eastern portion of the county.

In other developments, the Senate Rules Committee pulled legislation relating to an overhaul of the W. Va. Secondary Schools Activities Commission. The Senate beat back an attempt to amend a bill so that upper echelon members of the W. Va. Department of Education staff would have to have Senate clearance prior to employment. Then Sen. Sammy Dalton (D-Lincoln), a vocal WVDE critic, made that motion.

The Legislature also reported that riverboat gaming bills were dead, along with legislation to make changes in health care, although the House of Delegates approved a bill that provided coverage for indigent children – precur-

sor to the Children’s Health Insurance program – and terminally ill patients.

A bill warranting contentious debate concerned the construction and equipping of a lodge at Cedar Lakes in Jackson County. Then Republican Delegate Karen Facemyer of Jackson County supported the measure, while then Republican James Willison of Sistersville opposed it. Willison asked how Delegates could ‘afford to support the development of the lodge, when there are dilapidated public school and state buildings.’ He said, “We don’t have moneys for the School Building Authority (of West Virginia) and we can’t keep up with deteriorating buildings, yet we are going to allocate \$3 million for this project?”

The project was defended by then House Finance Committee Chairman Robert Kiss (D-Raleigh) who said persons using the lodge would pay for it, and that “no additional appropriations will be funded to the account.”

Lastly, *The Legislature* reported that a bill to abolish corporal punishment, which had been approved earlier by the Senate, appeared dead on the House side. The publication referred to the measure as a “legislative perennial.”

EDITOR’S NOTE: Facemyer is a state senator, representing Jackson and Mason counties. Willison is an employee of the House Education Committee.

Standards, accountability, assessment

HB4001 Changes Significant

Adopted by the House of Delegates Feb. 18, **House Bill 4001** would make a number of changes in several areas of education law. The original measure was a Wise Administration bill dealing with “teacher empowerment.” The House Education Committee stripped the bill of most of those provisions, although the Senate Education Committee restored some of that legislation, especially that dealing with safe schools.

As passed by the House, the bill largely dealt with standards, accountability and paperwork reduction. In a series of meetings, an SEC subcommittee, headed by Sen. Jon Blair Hunter (D-Monongalia), worked on several Senate amendments. The bill, including Senate amendments, would:

- Require Unified School Improvement Plans and Unified County Improvement Plans to be five-year plans, which must be revised annually in each area where a standard on the annual performance measures is not met. The revised annual plan also must identify certain other deficiencies.
- Direct the W. Va. Department of Education to make available on its Web site or through the W. Va. Education Information System an electronic “Unified School Improvement Plan” boilerplate.
- Designate the following three annual performance measures as the only measures for determining school accreditation and school system approval: (1) Student performance on certain assessments; (2) attendance rates; and (3) graduation rates.
- Require a uniform statewide assessment in grades 3-8 and 10 (grades in which WESTEST is currently given).
- Direct school curriculum teams to determine indicators for student progress in reading and mathematics in grades K-3. Provides alternate process if the school fails to meet AYP for two consecutive years.

Writing assessment

- Allow the W. Va. Board of Education to require the West Virginia Writing Assessment at grade levels it considers appropriate.
- Direct the WVBE to study moving the Grade 10 assessment to Grade 11 and the need for end-of-course examinations in Grades 9 and 11.
- Make the use of all other assessment instruments subject to determination by the school curriculum team.
- Remove several annual performance measures. (These are deemed to be determined by other entities and bodies. Examples include casual deficits, business/community partnerships, special education services and accounting practices.)
- Add indicators of Exemplary Performance and Progress, which includes “the percentage of graduates who declare their intent to enroll in college and other post-secondary education and training following high school graduation.” Other indicators relate to “the percentage of graduates who receive additional certification of their skills, competence and readiness for college, other post-secondary education or employment above the level required for graduation,” and “the percentage of students who successfully complete advanced placement, dual credit and honors classes.”
- Require the system of education performance audits to include the evaluation of certain records, reports and other information

“collected by the (WVDE) upon which the quality of education and compliance with statutes, policies and standards may be judged.”

OEPA salary

- Limit the Office of Education Performance Audits executive director’s salary to 80 percent of the salary of the state superintendent of schools.
- Require certain specific items be included in the reporting formats/checklists developed by the OEPA for use by schools or school systems to document compliance with laws, policies and process standards. (Examples include assurance of personnel evaluation; participation of students in P.E. classes, personnel licensure, and that the school provides “multi-cultural activities.”)
- Provide guidance to the WVBE for selecting schools or school systems where an on-site review will be conducted, specifically upon a determination that the performance and progress of the school or school system are “persistently below standard or other circumstances exist that warrant an on-site review.” “Persistently below standard” means that the performance and progress of the school or school system are below standard for “three consecutive years.”
- Exempt discussions of schools to be subject to an on-site review or dates for which on-site reviews will be conducted from the provisions relating to open governmental proceedings.
- Prohibit an on-site review of a school the year after the school attains exemplary status or meets AYP.
- Allow on-site review teams to include retired professional educators.
- Add the school curriculum team or teachers designated by the school curriculum team as persons required to be present at the exit conference of an on-site review.
- Specify specific areas that are not to be reviewed by the OEPA, including “examining compliance with the laws and policies affecting student, school and school system performance and progress.”
- Allow the WVBE, when intervening in the operation of a school and removing the principal, to add the option of placing the principal on the transfer list.
- Permit the WVBE, when intervening in the operation of a school system, to function in lieu of the county board in a transfer, sale, purchase or other transaction regarding real property. (This provision is found in **House Bill 111**, the so-called McDowell County bill.)

Process for Improving Education Council

- Require that notice required to be given by the state board to the Process for Improving Education Council whenever amending rules relating to certain issues contain a summary and explanation of the proposed changes and that the notice be sent at least 15 days prior to filing the proposal.
- Provide for each suspension/expulsion to be recorded on WVEIS, and that WVEIS be consulted prior to the admission of a student to any public school.

See **HB4001 CHANGES** on page 8

Administrator's Perspective

Major Bills Considered: HB4001, HB4601

By Martha Dean, Ed.D.

As the session winds down, two bills seem to be emerging as this year's omnibus bills for public education: **House Bill 4001** and **HB4601**. On Tuesday (March 8), Sen. Jon Blair Hunter (D-Monongalia) reported to the full Senate Education Committee on the recommendations for amendments to **HB4001** from his subcommittee. Some of the changes include:

- 1) The five-year plan must be revised annually if any deficiency is identified in the check lists;
- 2) The high school assessment was moved back from the 11th grade (House version) to the 10th grade, subject to a W. Va. Board of Education study of the cost/benefit analysis of doing it at the 11th grade;
- 3) The indicators for student progress in reading and math in K-3 are to be measured by an informal assessment determined by the school curriculum team.
- 4) The West Virginia Assessment is to be administered in grades 4, 7 and 10;
- 5) End of course examinations are not eliminated, but the WVBE is required to review the need for them in grades 9 and 11;
- 6) The attendance and graduation rates requirements are changed to be consistent with current requirements in Policy (Code symbol) 2320;
- 7) The Office of Education Performance Audits is given authority to choose schools or school systems in which on-site reviews are conducted by weighted selection. However, exemplary schools or schools meeting AYP are exempt from an on-site review;

Retired Educators

- 8) On-site review teams can include retired professional educators;
- 9) Information regarding suspensions/expulsions is to be added to the W. Va. Education Information System in order to provide principals to access such before enrolling a new student;
- 10) A teacher could not be required to change a grade unless there is convincing evidence of a mathematical error; (This may be the only bill provision sought by the W., Va. Federation of Teachers and the W. Va. Education Association that was added to the bill.)
- 11) No rule, policy or standard governing special education could exceed federal requirements;
- 12) The Committee deleted a section that required the repeal of certain state board policies; and

OEPA Director's Salary

- 13) The OEPA executive director's salary can be no more than 80 percent of the salary cap of the state superintendent of schools. (This amendment was made on the floor of the committee. It was proposed by Sen. John Unger [D-Berkeley].) He expressed concern that the WVBE might hire a new state superintendent at a lesser salary and there would be a required reduction in the salary of the director of OEPA as it was written in the earlier version.)

HB4001 passed out of the SEC and was referred to the Senate Finance Committee Tuesday.

House Bill 4601

HB4601 passed out of the SEC March 4 with several changes as reported in this column last week. It went to SFC and was taken up Tuesday afternoon. Sen. Education Committee Chairman Robert H. Plymale (D-Wayne) offered a couple of amendments to the amendments pending from the SEC. In essence the bill, as passed out to the Senate floor from the SFC, would contain no raises for teachers; would capture the school bus replacement allocation for one year only; and, and would capture \$19 million from the School Building Authority of West Virginia's "pay-as-you-go" funding from lottery proceeds.

Passage from the SFC was not unanimous, but I couldn't tell who all voted against it. From remarks he made during the meeting, I would guess that Senator Guills (R-Greenbrier) voted against passage of the bill. He raised a concern about having buses which are too old to be transporting students in the bus fleets without the possibility of buying new buses, even for one year. The concern about these two provisions being made permanent was raised several times and the answer was always the same: this is for one year only. Next year we will fund bus replacement and the SBA projects.

Chairman Walt Helmick (D-Pocahontas) also voiced his concern that next year the budget will have even greater holes and it will be extremely difficult next year to find the money to fund state government. **HB4601** was reported out to the floor on Wednesday, was read a second time. It will be on the agenda for Senate third reading today.

House Action

Activity in the House Education Committee has slowed down tremendously. There was some action on Monday (March 8) but reportedly it was of the "sending a message" variety. They met briefly on Wednesday morning but did not pass out any bills although three bills were distributed, **Senate Bill 633**, **SB636** and **SB512**.

Other SEC Action

The SEC has had a flurry of activity starting on Thursday when they passed **HB4601**, as described above. They also passed **HB4554**, a bill which gives regular employee status to subs who fill in when a regular employee is off work on workers' compensation, **HB4043**, the bill that provides that the early grades place an emphasis on reading, language arts, and math to the extent that it prohibits any other subjects from being required to be taught on a daily basis, and a committee substitute for **HB4072**, which requires the development of a statewide technology strategic plan.

On Tuesday, Senate Education passed out **HB4669**, the bill that provides that the State Superintendent identify three demonstration schools in counties containing five percent or more minority population, **HB4271**, which allows students to self-administer allergy inhalers; **HB4001**, as amended and described above, **HB4478**, which lengthens the time for the publishing of the annual

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A need for expansive input

Let's Open Up Budget-Making Process

By Howard M. O'Cull, Ed.D.

Although the legislative session is slated to adjourn midnight Saturday, some session fiscal heavy-lifting will occur during next week's budgetary negotiations.

There have been hints all along that this session was mainly about financial matters, beginning with the proclamation that legislators would have to find moneys to thwart a \$120 million deficit since the state can't engage in deficit spending.

During the course of the session, a few bills addressed this situation, including legislation that would extract moneys from the School Building Authority of West Virginia, as well as freezing, for one year, school bus replacement. Indeed, this piece of legislation – now making its final course through the Legislature – is part of the mix.

What we're not seeing as part of the mix, at least at this point, may be "other" public education reductions. A few top legislators and W. Va. Department of Education officials are privy to that information. Moreover, final details aren't likely to be made known until after the Legislature effectively adjourns, at least if past form and practice are followed.

Thus, a few legislators and WVDE officials essentially will broker and negotiate some of the finer aspects of the public education budget for FY05 in a process whereby county superintendents, county board members and, to a large extent, the remainder of the educational community will have little direct or expansive input.

'Invited Negotiations'

Unlike regular legislative deliberations, including subcommittee and committee meetings, this process is one of invited negotiations, with legislative leaders, as the major funders, having a considerable advantage. Indeed, the more educational issues relate to funds, i.e., money, the greater the hand of the Legislature. In the large sense it should be that way: The Legislature is the guardian of the people's purse and the Legislature is required to adopt a constitutionally balanced budget.

Yet, once budget figures are released, there likely are to be some questions as to why this program was funded; why this program wasn't funded; why cuts were made "here" and "not there" and the like. The refrain, however, is familiar: Legislative determination for educational funding is largely an exercise between legislators and WVDE officials.

That, in fact, has been the case for about 20 years. Historically speaking, the Legislature in the mid-1980s started viewing educational funding – exemplified by the state school aid formula at least – as tantamount to "budgetary growth." Thus, fiscal-minded legislators began to manicure the formula so as to "manage" growth, beginning, of course, with special education funding.

History

These events had several consequences: County educational officials, asked to accede to legislators' demands in 1987 and 1988 to help downsize the formula, refused to participate voluntarily (as

could be expected). Legislative funders, finding no immediate allies from county administrators and school boards, turned to W. Va. Department of Education officials for support. Indeed, the exercise is one that largely will attract funders (legislators) and the WVDE due to the department being the repository of the state's educational budgetary information. The end result was greater centralization of the Legislature's budget-making exercise so that fewer and fewer persons were involved—despite a few messy public spectacles, namely the "Step VII" fracas of the early 1990s.

As policy centralization occurs, decision-making naturally is confined to fewer and fewer individuals. And, as policy objectives narrow, decisional goals are collapsed into a few easily managed objectives—the very thrust of that process. With fewer (but more refined and deliberate) goals at stake and with fewer but more committed persons involved in decision-making, interest groups have a harder time making an impact. (As a corollary, interests were successful in 'saving' the pre-k program this session because the 'event' took place within the larger context of educational decision-making and not in the confining context of a budget conference committee. Secondly, legislative commitment to shelving the program was somewhat soft in that the Senate and governor apparently didn't support the House stance. At any rate, the House sent the message that pre-kindergarten program cuts may occur in the future.)

Of course, interests and persons who are affected by the budget negotiations will find this process somewhat irritating (if not egregious), noting how it helps buoy the power of agency negotiators and powerful legislators who, in effect, broker monetary arrangements and decisions for the locals, including county boards.

I don't think we should be so quick to rush to this conclusion, however. A worse scenario would occur if centralization were lax; with the entire budget being crafted within the context of what would be a well-attended committee meeting of the whole. (After all, that's why committees hash out legislative measures rather than the full House or Senate per se.)

Educational Policy

Moreover, WVDE officials, in working with legislators to craft what amounts to educational policy, are imbued with a greater largess of information relating to budgetary impact. And whether the WVDE should have such policy wherewithal at this level isn't really questioned in that it is an historical given. Lastly, centralization serves to dismantle the brunt and impact of purely local, provincial interests. The budget crafted is about money, but it's also about policy, with the assumption that larger policy interests are being served.

While anyone who objects to "how" the state budget is fashioned isn't, by that means alone, going to change the process, here are a few considerations regarding the exercise:

1. WVDE officials, working with county superintendents and other interests, could identify major policy considerations or prefer-

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OPEN UP PROCESS

continued from page 7

ences for the budget-making process, including programs to spare from cuts and other considerations. While some responses will be predicable, including calls for increased school employee pay and benefits, interest groups would be given an opportunity to make advisory notions about educational fiscal priorities. WVDE officials could easily convene such a forum. Thus, if securing the pre-kindergarten program becomes a major objective, what other budgetary decisions need to be made to acquire continued funding for program implementation? Even if interest groups won't ante up easy answers, can't decide, or sprout rhetoric only (not wanting to be associated with reductions that might be made in public education), the question will have been placed and, on some major programs (such as the pre-kindergarten program), interests can harness work and energies to obtain these objectives. One objection: Interests participating in this endeavor may have unrealistic expectations for any consensual or prioritized products to prevail. Again, those expectations readily exist with or without forum participation as outlined above. A related objective is that education can possibly be spared future budgetary rejections. Is this assumption realistic?

2. Given access to the largess of data and information available at the WVDE level, the department officials could convene various sessions involving county boards and superintendents (and other interests) to discuss the "fiscal state" of public education, as well as educational cost-savings and efficiencies. Sadly, again given the wherewithal and largess of data and information at the WVDE level, department officials don't use this process.
3. As part of what should be an on-going, prolonged conversation about educational policies and values, WVDE officials could convene a conversation about how existing educational programs can be fashioned differently in order to preserve their focus but through other means of delivery. Witness the education community's collaboration on **House Bill 4001**. This writer's reading of that bill is that interests want to be part of the discussion about core educational programs, principles and values.
4. Education interests and others could recommend WVDE program prioritization in terms of use and value—and in terms of duplication. Could Regional Education Service Agencies and others assume funding for these programs? Are some obsolete? Are some programs accountable? What about results?

This writer's point is not to criticize the current arrangement or the personalities involved in those exercises. In fact, let's be thankful that we have a state superintendent who is respected by legislators and who has a background in educational finance. What I'm saying is that this entire process might be improved if it were more of a continuous conversation about educational budget priorities not a fait accompli involving what has been negotiated for those parties affected.

Thus, this approach would allow county superintendents and county boards to be able to affect at least the preliminary parts of the process. Moreover, superintendents and county boards, by implication, would be less susceptible to surrogate decision-making they have to live with.

Caveats

Three caveats: Purists would argue that county boards shouldn't engage in discussions about budget cuts as a matter of principle. The state's current fiscal reality says otherwise, I believe. Secondly, too broad a process might lead to hard feelings and finger-pointing. Those who witnessed the W. Va. Board of Education's reaction to reductions in last year's educational technology spending, with an apparent sign-off by WVDE negotiators, know otherwise. It's best to know where cuts are coming from than to be surprised after the fact. Finally, I think legislators would appreciate this process and its parameters, knowing that interests have had a glimpse of the complexity of the budgetary track.

With Dr. David Stewart staying at the helm as state superintendent for at least the next two years, this writer hopes that the WVDE will develop a budget-making process that involves various interests to a greater extent than present. Public education funding – coupled with the absolute necessity of finding money for teacher pay increases – is the major issue of this decade. Coupled with the federal No Child Left Behind Act, considered by the WVDE and most legislators as an unfunded mandate, interest groups need to come to the table to explore these issues. The WVDE best can provide that forum.

— *O'Cull is W. Va. School Boards Association executive director.*

ADMINISTRATOR'S PERSPECTIVE

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financial report by county boards and increases from \$50 to \$250 the amount a vendor would receive before it is published; **HB4576**, which adds a W. Va. Family Literacy Check Off Fund to be created; **HB2268**, which provides benefits for substitute teachers under certain circumstances; and, **HB4738**, which adds class titles of administrative assistant and Cook IV, to be paid out of county funds.

One conference committee met Wednesday morning concerning **SB448**, a higher education bill dealing with the community college advisory board.

— *Dean is W. Va. Association of School Administrators executive director, a post she has held since 2002.*

HB4001 CHANGES

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- Prohibit a teacher from being required to change a student's grade unless there is clear and convincing evidence that there was a mathematical error in calculating the student's grade.
- Prohibit any state or county policy or rule governing special education from exceeding the requirements of federal law.
- Prohibit a teacher from being required to post his or her lesson plan on the Internet.
- Add a new section that establishes a statement of policy and practice for the county boards and school personnel to minimize possible disagreement and misunderstanding.
- Make each county board solely responsible for the administration of discipline in the public schools.

The bill's effective date would be July 1. It has been referred to the Senate Finance Committee.

The bill amends §18-2E-5 and 5c, §18-5-15f, §18-20-5, §18A-2-12 and §18A-5-1 and 1a; and, would add §18-5-46 and §18A-2-12a as new Code sections.

Source: Senate Education Committee Counsel Hank Hagar.

EDITOR'S NOTE: The following is an expansive listing of education and education-related bills, with action current through Thursday morning (March 11) for most bills. For information on any bill, or to receive a copy of the legislation, please contact WVSBA Executive Director Howard M. O'Cull, Ed.D., or visit the Legislature's Web site at www.legis.state.wv.us.

Senate

Senate Bill 100. Prohibiting state and political subdivisions from contracting with vendors owing debt. Passed Senate 1/27/04. Referred to House Government Organization Committee. Passed House 3/10/04.

Senate Bill 125. Permitting solicitation of certain state employees for contributions to certain campaigns in local or county elections. Passed Senate 2/13/04. House second reading, special calendar 3/11/04.

Senate Bill 196. Eliminates the mandatory order of activities regarding Instructional Support and Enhancement Days. Originated in and passed Senate Education Committee 1/15/04. Passed Senate 1/21/04. Adopted by House Education Committee 3/8/04. Referred to Senate Finance Committee on second reading 3/8/04.

Senate Bill 240. Providing certain public governing bodies need not require second to motion. Passed Senate 2/17/04. Referred to House Judiciary Committee.

Senate Bill 296. Continuing Center for Professional Development Board. Passed Senate 1/30/04. Passed House 3/5/04.

Senate Bill 408. Relating generally to levies by county boards of education and expenditure of property taxes collected. Passed Senate Education Committee, as amended 2/25/04. Adopted by Senate Finance Committee, as amended 2/27/04. Referred to House Finance Committee.

Senate Bill 425. Establishing English as official state language. Passed Senate 2/18/04. Referred to House Judiciary Committee.

Senate Bill 439. Relating to compulsory immunization of school children; exemptions. Passed Senate 2/25/04. Referred to House Health and Human Resources Committee. House Health and Human Resources Committee rejected 3/5/04.

Higher Education

Senate Bill 165. Simplifying state higher education tuition and fee system. Passed Senate 2/25/04. Referred to House Education Committee, then House Finance Committee.

Senate Bill 204. Relating to Strategic Research and Development Tax Credit. Passed Senate 3/3/04. Referred to House Finance Committee.

Senate Bill 410. Providing opportunities to certain children of deceased military; removing in-state requirement. Passed Senate 2/24/04. Referred to House Veteran Affairs and Homeland Security Committee, then House Finance Committee.

Senate Bill 448. Relating to higher education advisory boards generally. Passed Senate 2/10/04. Passed House 2/18/04. Senate amended bill 3/5/04, requesting House to concur in amend-

ment.

Senate Bill 512. Authorizing rules of Higher Education Policy Commission. Passed Senate 3/2/04. Passed House Education Committee as amended, 3/8/04. Referred to House Finance Committee on second reading 3/8/04.

Senate Bill 524. Relating to Council for Community and Technical College Education and PROMISE Scholarship Board of Control. Passed Senate 2/13/04. Passed House 2/24/04. Approved by governor 3/9/04.

Senate Bill 633. Relating to electronic mail addresses protected in higher education institutions. Passed Senate 3/3/04. Referred to House Education Committee, then House Judiciary Committee.

Senate Bill 721. Relating to centers for economic and technology advancement. Passed Senate 3/3/04. Referred to House Education Committee.

Retirement

Senate Bill 502. Relating to members of Teachers Defined Contribution Retirement System. Passed Senate 2/20/04. Passed House Finance Committee, as amended 3/9/04. House second reading, special calendar 3/11/04.

Senate Bill 636. Relating to employment of members of the Teachers Defined Benefit Retirement System. Passed Senate 3/3/04. Referred to House Education Committee, then House Finance Committee.

Education-related

Senate Bill 67. Requiring agency, department or board to submit statement of compliance to legislative auditor within certain time. Passed Senate 3/2/04. Referred to House Government Organization Committee.

Senate Bill 166. Measure relates to 0.08 for Driving Under the Influence of alcohol or a controlled substance. Has finished legislative action. Approved by governor 2/16/04.

Senate Bill 208. Allowing state police to engage in certain political activities (including campaigning for and being elected to public office) while off duty and out of uniform. Passed Senate 2/10/04. House third reading, special calendar 3/11/04.

Senate Bill 231. Authorizing county commissions to establish flood plain enforcement agency. Amended and passed Senate Government Organization Committee 1/29/04. Passed Senate 2/4/04. Referred to House Political Subdivisions Committee.

Senate Bill 224. Correcting reference to article concerning adoption of abandoned child. Passed Senate 1/27/04. Referred to House Judiciary Committee.

Senate Bill 271. Relating to racial profiling data collection. Passed Senate 2/17/04. Referred to House Judiciary Committee, then House Finance Committee.

Senate Bill 319. Relating to centers for housing young adult offenders. Passed Senate 2/9/04. Passed House Judiciary Committee 3/9/04. House first reading, special calendar 3/11/04.

Senate Bill 406. Relating to victim notification of defendant's release. Passed Senate 3/3/04. Referred to House Judiciary Committee. House second reading 3/11/04.

Senate Bill 449. Relating to elections generally. Passed Senate 2/9/04. Passed House 2/23/04. Governor approved 3/2/04.

Senate Bill 456. Requiring state agencies administering funds or grants to notify grantee in certain cases. Passed Senate 3/3/04. Passed House Government Organization Committee 3/9/04. House first reading, special calendar 3/11/04.

Senate Bill 536. Relating to claims against the state. Passed Senate 3/3/04. Passed House Finance Committee, as amended 3/9/04. House first reading, special calendar 3/11/04.

Senate Bill 573. Providing procedure for W. Va. Economic Development Authority to address problems of state minorities. Passed Senate 3/1/04. Referred to House Government Organization Committee, then House Judiciary Committee. Referred to House Judiciary Committee 3/9/04.

Senate Bill 579. Relating to sex offender registration. Passed Senate 2/24/04. Referred to House Judiciary Committee.

Senate Bill 596. Concerning powers and duties of Board of Directors of W. Va. Board of Risk and Insurance Management. Passed Senate 3/2/04. Referred to House Judiciary Committee.

Senate Bill 605. Relating to Child Fatality Review Teams. Passed Senate 3/2/04. Passed House Health and Human Resources Committee 3/9/04. Referred to House Judiciary Committee.

Senate Bill 624. Requiring criminal and driving record checks for public employment and certain other individuals. Passed Senate 3/3/04. Referred to House Judiciary Committee.

Senate Bill 694. Establishing Fairness in Competitive Bidding Act. Passed Senate 3/2/04. Referred to House Finance Committee.

Senate Bill 696. Providing that counties using voting machines may count absentee ballots on Election Day. (There are other provisions.) Passed Senate 3/2/04. Referred to House Judiciary Committee.

Senate Bill 700. Requiring state agencies to make timely payments for telecommunications services. Passed Senate 3/3/04. Referred to House Finance Committee.

Miscellaneous

Senate Bill 229. Expanding counties covered by Route 2/Interstate 68 Authority. Passed Senate 3/2/04. Referred to House Roads and Transportation Committee, the House Government Organization Committee.

Senate Bill 271. Relating to racial profiling data collection. Passed Senate 2/17/04. Referred to House Judiciary Committee, then House Finance Committee.

Senate Bill 420. Relating generally to motor fuels excise tax. Passed Senate 2/25/04. Passed House Finance Committee, as amended 3/8/04. House second reading, consent calendar 3/11/04.

Senate Bill 573. Providing procedure for Economic Development Authority to address problems of state minorities. Passed Senate 3/1/04. Passed House Government Organization Committee 3/9/04. Referred to House Judiciary Committee.

Senate Bill 701. Authorizing certain taxes imposed by municipalities. Passed Senate 3/3/04. Referred to House Finance Committee.

Senate Bill 705. Removing ‘personal use’ exception for criminal offense of manufacturing controlled substance. Passed Senate 3/3/04. Referred to House Judiciary Committee.

Senate Bill 709. Providing additional internal controls and procedures for the state purchase card program. Passed Senate 3/3/04. Passed House Government Organization Committee, as amended. House second reading 3/12/04.

Resolutions

Senate Concurrent Resolution 9. Requesting Joint Committee on

Government and Finance study converting Teachers Defined Contribution Retirement System to Defined Benefit Retirement System. Adopted by Senate 32/8/04. Referred to House Rules Committee.

Senate Concurrent Resolution 12. Declaring December, 2004, “Legislators Back to School Month.” Adopted by Senate 1/23/04. Adopted by House 3/1/04. Completed legislative action.

Senate Concurrent Resolution 16. Requesting Joint Committee on Government and Finance to study governing in the 21st Century. Passed Senate 3/8/04. Referred to House Rules Committee.

Senate Concurrent Resolution 32. Relating to federal No Child Left Behind Act. Passed Senate 2/9/04. Adopted by House 3/1/04. Completed legislative action.

Senate Concurrent Resolution 33. Urging manufacturers and dealers of all-terrain vehicles to design, test and offer roll bars as optional ATV equipment. Passed Senate 2/10/04. Referred to House Rules Committee.

Senate Concurrent Resolution 41. Affirming religious tolerance as official state policy. Adopted by Senate 2/16/04. Referred to House Rules Committee.

Senate Concurrent Resolution 42. Asking governor to declare April 4 as “Childrens Memorial Flag Day.” Adopted by Senate 2/16/04. Adopted by House 3/8/04.

Senate Concurrent Resolution 68. Requesting Joint Committee on Government and Finance to study grievance boards and administrative law judge systems. Adopted by Senate 3/8/04. Referred to House Rules Committee.

House of Delegates

House Bill 2268 (carryover). Relates to employment of retired teachers as substitute teachers in “areas of critical need and shortage.” There are other provisions. House Education Committee adopted 1/15/04. Passed House 1/21/04. Passed Senate Education Committee, as amended 3/9/04. Senate third reading 3/11/04.

House Bill 2323 (carryover). Creates an office of personnel within the state Department of Education (using existing personnel). House Education Committee adopted 1/15/04. Tabled on House third reading 3/4/04.

House Bill 2423 (carryover). Awarding high school diplomas to certain veterans. Passed House 3/1/04. Removed from calendar on third reading 3/11/04.

House Bill 2706 (carryover). Relating to compensation paid to members of the education and state employees grievance board. Passed House 3/3/04. Referred to House Government Organization Committee.

House Bill 3190 (carryover). Relating to the titling and ownership of property for area vocational education programs. Amended and adopted by House Finance Committee 1/19/04. Passed House 1/22/04. Referred to Senate Education Committee.

House Bill 4001. Ensuring safer schools and empowering teachers by automating student suspension and expulsion data. Passed House 2/18/04. Passed Senate Education Committee 3/9/04. Referred to Senate Finance on second reading 3/9/04.

House Bill 4005. Creating a special revenue fund for the operation of the Education and State Employees Grievance Board. Amended and passed House Finance Committee 2/25/04. Tabled

on House second reading, special calendar 3/4/04.

House Bill 4018. Authorizing the issuance of grant waivers to sparsely populated counties for relief from the ratio limitations on state funding of professional educators. Passed House education and finance committees. Passed House 3/3/04. Referred to Senate Education Committee, then Senate Finance Committee.

House Bill 4037. Providing for safe schools through alternative education programs and providing certain juvenile justice records to public school officials. Amended and passed House Education Committee 1/22/04. Passed House 1/28/04. Passed Senate Education Committee 2/18/04. Referred to Senate Judiciary Committee.

House Bill 4039. Relates to contracts for non-educator athletic and extracurricular coaches. Would allow these individuals to continue coaching without position being posted yearly if serving in position for three or more consecutive years. Referred to full House. House Education Committee adopted 1/15/04. Passed House 1/21/04. Referred to Senate Education Committee.

House Bill 4040. Makes changes in statute relating to reference for overall rating of satisfactory on previous two years' evaluations, making statutory change to "previous two evaluations." House Education Committee adopted 1/15/04. Passed House 1/21/04. Adopted by Senate Education Committee 3/3/04. Passed Senate 3/9/04.

House Bill 4043. Establishing the priority for early childhood education in the basic skills of reading, mathematics and English language arts. Amended and adopted by House Education Committee 1/20/04. Passed House 1/22/04. Referred to Senate Education Committee, then Senate Finance Committee. Senate third reading 3/11/04.

House Bill 4044. Increases compensation of state superintendent of schools. House adopted 2/23/04. Referred to Senate Education Committee, then Senate Finance Committee.

House Bill 4045. Requires state superintendent of schools to receive evidence that a county superintendent has given bond with good security pursuant to W. Va. Code §6-2-10. Passed House 1/21/04. Referred to Senate Education Committee.

House Bill 4053. Changing the rate of compensation of members of the state board of education. Passed House 2/23/04. Referred to Senate Education Committee.

House Bill 4055. Creating a compact between states for the protection and return of juvenile offenders, runaways and other juveniles. Passed House Judiciary Committee 1/26/04. Passed House 1/29/04. Referred to Senate Judiciary Committee.

House Bill 4072. Providing for a unified approach to the long-term planning and implementation of technology in the public schools. Amended and adopted by House Education Committee 1/20/04. Passed House 1/22/04. Adopted by Senate Education Committee 3/5/04. Referred to Senate Finance Committee on second reading 3/5/04.

House Bill 4081. Requiring county school boards to post the position of county superintendent for at least 30 days prior to making an appointment. Requirement would not apply for a reappointment or interim appointment. Passed House 1/27/04. Referred to Senate Education Committee.

House Bill 4111. This is the so-called "McDowell County" measure. It relates to property ownership in school boards having been intervened or taken over by the state, including disposition of properties in flood plains. Adopted by House and Sen-

ate 1/22/04. Signed by Governor 1/29/04.

House Bill 4116. Providing tuition and fee vouchers for students who sound Taps during a military honors funeral. Passed House 2/25/04. Referred to Senate Education Committee.

House Bill 4130. Providing for the employment of a highly qualified and fully certified substitute teacher to perform the duties of a teacher who attends W.Va. Department of Education meetings or development sessions. A teacher would not be required to attend such unless the WVDE employs or reimburses the county for the substitute. Amended and passed House Education Committee 1/29/04. Passed House Finance 1/29/04. Passed House 3/3/04. Referred to Senate Education Committee.

House Bill 4138. Prohibiting persons from impersonating a public official by copying or imitating the markings of a public agency or official on a motor vehicle. Passed House 2/5/04. Referred to Senate Judiciary Committee.

House Bill 4271. Requiring all schools to permit students to self-administer asthma medication. Amended and adopted by House Education Committee 2/17/04. Passed House 2/20/04. Amended and adopted by Senate Education Committee 3/9/04. Senate third reading 3/11/04.

House Bill 4284. Extending the eligibility to receive the \$500 early retirement bonus to school service personnel. House Education Committee adopted 2/5/04. Passed House 3/3/04. Referred to Senate Education Committee.

House Bill 4290. Creating a framework to avoid imposition of policies and practices on the public schools that distract from a thorough and efficient education. Passed House 2/6/04. Referred to Senate Education Committee.

House Bill 4295. Exempting state bonds from taxation. Passed House 2/25/04. Referred to Senate Finance Committee.

House Bill 4297. Clarifying that the county board of education and its superintendent may designate the places where competency testing for service personnel will be held. Amended and adopted by House Education Committee 2/17/04. Passed House 2/20/04. Referred to Senate Education Committee.

House Bill 4338. Providing for the issuance of special registration plates promoting education and using the special fee for the registration plates to fund transportation for school trips for academic purposes. Passed House 2/18/04. Passed Senate Transportation Committee as amended 3/9/04. Reference to Senate Finance Committee waived. Senate third reading 3/11/04.

House Bill 4415. Giving the W. Va. Auditor flexibility in determining when to conduct audits on local government offices. Passed House 3/3/04. Passed Senate Government Organization Committee 3/8/04. Reference to Senate Finance Committee waived. Senate third reading 3/11/04.

House Bill 4441. Expanding newborn screening by adding sickle cell anemia and adrenal hyperplasia. Passed House 3/3/04. Referred to Senate Health and Human Resources Committee, then Senate Finance Committee.

House Bill 4478. Lengthening the time period which county boards are required to publish a year-end financial statement. Originating in and passed House Education Committee 2/13/04. Passed House 2/18/04. Passed Senate Education Committee 3/9/04. Senate third reading 3/11/04.

House Bill 4492. Creating the criminal offense of soliciting a minor via computer. Passed House 3/3/04. Passed Senate Judiciary Committee, as amended 3/9/04. Senate third reading 3/11/04.

House Bill 4552. Relating to grounds for the revocation of teacher certificates. Originated within and passed House Education Committee 2/20/04. Passed House 2/26/04. Referred to Senate Education Committee.

House Bill 4553. Relating to standards for awarding certificates to teach in the public schools. Passed House 2/26/04. Referred to Senate Education Committee.

House Bill 4554. Relating to rights, privileges and benefits of substitute school service personnel to fill vacancies created by leaves of absences. Passed House 2/26/04. Referred to Senate Education Committee. Senate Education Committee approved 3/4/04. Passed Senate with amended title 3/9/04.

House Bill 4574. Providing for a program in personal finance for secondary school students. Passed House 3/2/04. Referred to Senate Education Committee

House Bill 4576. Creating a voluntary checkoff on state income tax returns to donate refunds to family literacy program. Passed House 3/1/04. Passed Senate Education Committee 3/9/04. Referred to Senate Finance Committee on second reading 3/9/04.

House Bill 4601. Relating to public education generally. Suspends school aid formula appropriations for school bus replacements in fiscal 2005. Provides for legislative appropriation or allocation of appropriation of certain revenues, funds and moneys of School Building Authority of West Virginia. Provides certain guidelines and procedures by authority for plans, plan modifications and evaluating projects. Provides salary increment increase for teachers. Originated within and passed House Education Committee 2/24/04. Passed House 2/27/04. Senate Education Committee amended and adopted 3/4/04. Passed Senate Finance Committee, as amended 3/9/04. Passed Senate 3/10/04.

House Bill 4624. Relating generally to tax increment financing. Passed House 3/2/04. Passed Senate Finance Committee, as amended 3/9/04. Senate third reading 3/11/04.

House Bill 4626. Providing a salary supplement for providers of Medicaid eligible services in the public schools. Originated within and passed House Education Committee 2/25/04. Passed House 3/3/04. Referred to Senate Finance Committee.

House Bill 4669. Providing for establishment of special five-year demonstration professional development school project. Originated within and passed House Education Committee 2/27/04. Removed from House consent calendar 3/3/04. Amended on third reading 3/3/04. Placed at foot of third reading bills, amended a second time, then passed House 3/3/04. Passed Senate Education Committee, as amended 3/8/04. Reference to Senate Finance Committee waived. Amended on floor Senate floor 3/10/04. Senate third reading 3/11/04.

House Bill 4714. Clarifying that certain community education programs support public education. Passed House 3/3/04. Referred to Senate Education Committee.

House Bill 4737. Providing options for members of teachers retirement to make contributions for periods of temporary total disability. Passed House 3/3/04. Passed Senate Finance Committee; Senate third reading 3/11/04.

House Bill 4738. Relating to salaries, wages and other benefits of school service personnel. Passed House 3/3/04. Passed Senate Education Committee 3/9/04. Referred to Senate Finance Committee on second reading 3/9/04.

Higher Education

House Bill 3097 (carryover). Prescribing proper venue in civil ac-

tions involving W. Va. University and Marshall University. Passed House 2/5/04. Referred to Senate Judiciary Committee.

House Bill 4287. Eliminating the provision of law limiting seniority rights for classified employees when funding the annual salary increment results in employee layoffs. Passed House 2/9/04. Passed Senate 2/24/04. Governor signed 3/4/04.

House Bill 4318. Imposing personal income tax on funds withdrawn from a prepaid college tuition contract or other college savings plans. Passed House 3/3/04. Referred to Senate Finance Committee.

House Bill 4495. Providing that the assignment and transfer of real property for research and development at higher education institutions for economic development purposes includes housing projects. Passed House 3/3/04. Referred to Senate Education Committee.

House Bill 4743. Establishing conditions precedent to eliminating certain National Collegiate Athletic Association eligible teams. Passed House 3/3/04. Referred to Senate Education Committee, then Senate Judiciary Committee.

Retirement

House Bill 2132 (carryover). Providing retirement service credit to teachers at private colleges/universities. Passed House 3/2/04. Referred to Senate Pensions Committee, then Senate Finance Committee.

House Bill 2912 (carryover). Providing that certain education personnel who are former state employees may exercise the option to transfer from the Public Employees Retirement System to the Teachers Retirement System. Passed House 3/3/04. Referred to Senate Pensions Committee, then Senate Finance Committee.

House Bill 4252. Allowing the purchase of up to four years of CETA time in the Teachers Retirement System. Passed House 2/27/04. Referred to Senate Pensions Committee, then Senate Finance Committee.

House Bill 4280. Making available to retired PEIA participants the optional dental, vision, and audiology and hearing-aid services insurance plans that are available to current participants. Passed House 2/27/04. Passed Senate Banking and Insurance Committee, as amended 3/4/04. Passed Senate Finance Committee, as amended 3/8/04. Laid over on Senate third reading 3/10/04.

House Bill 4545. Creating the Teachers' Retirement Equity Act. Passed House 3/3/04. Referred to Senate Pensions Committee, then Senate Finance Committee.

House Bill 4562. Relating to the rights of members of the Teachers' Defined Contribution Retirement System to make a technical correction to clarify membership. Passed House 3/3/04. Referred to Senate Pensions Committee, then Senate Finance Committee.

House Bill 4668. Providing a supplemental pension benefit to certain retired members of the Public Employees Retirement System and the Teachers Retirement System. Passed House 3/2/04. Referred to Senate Pensions Committee, then Senate Finance Committee.

Education-Related

House Bill 2088 (carryover). Increasing the penalty for the manufacture, distribution or possession of certain controlled substances (or counterfeit substances) near a park. Passed House 1/22/04. Passed Senate Judiciary Committee, as amended 3/9/04. Senate second reading 3/10/04.

House Bill 2200 (carryover). Creating felony offense of destruc-

tion of property. Passed House 2/12/04. Passed Senate Judiciary Committee 3/8/04. Senate third reading 3/11/04.

House Bill 4022. Relates to all-terrain vehicle safety. Has completed legislative action. Governor signed legislation 3/9/04.

House Bill 4036. Relating to legislative appropriation of tobacco settlement funds. Passed House 3/3/04. Referred to Senate Finance Committee.

House Bill 4055. Creating a compact between states for the protection and return of juvenile offenders, runaways and other juveniles. Passed House 1/29/04. Referred to Senate Judiciary Committee.

House Bill 4077. Eliminating the set-off against Unemployment Compensation benefits for persons receiving Social Security benefits. Passed House 3/3/04. Referred to Senate Finance Committee.

House Bill 4110. Making the state's criminal penalty laws applying to use and display of beer and alcoholic beverages in motor vehicles conform to federal law (open containers). Passed House 2/4/04. Referred to Senate Transportation Committee, then Senate Judiciary Committee.

House Bill 4140. Requiring the W. Va. Ethics Commission to establish a code of conduct for state administrative law judges. Passed House 2/6/04. Referred to Senate Judiciary Committee.

House Bill 4250. Providing good faith protection for licensed psychologists and psychiatrists acting upon appointment by a court in child custody cases. Passed House 2/18/04. Passed Senate Judiciary Committee 3/9/04. Senate third reading 3/11/04.

House Bill 4259. Revising the composition, powers and duties of the Governor's Cabinet on Children and Families. Passed House 2/9/04. Referred to Senate Government Organization Committee.

House Bill 4273. Changing the authority to appoint guardians of minors from the county commission to the family court. Passed House 2/18/04. Passed Senate 3/8/04.

House Bill 4285. Providing that custody of children of a parent murdered by his or her spouse shall be placed with the most suitable member of the victim's family. Passed House 2/25/04. Referred to Senate Judiciary Committee.

House Bill 4304. Continuing the Children's Health Insurance Board. Passed House 2/9/04. Passed Senate Government Organization Committee 3/8/04. Removed from Senate calendar 3/10/04.

House Bill 4330. Revising the laws concerning vital statistics. Passed House 3/4/04. Referred to Senate Government Organization Committee, then Senate Judiciary Committee, then Senate Finance Committee.

House Bill 4334. Creating the Joint Commission of Technology and Advanced Communications. Passed House 3/1/04. Referred to Senate Rules Committee.

House Bill 4339. Clarifying the imposition of consumers and service tax on purchases made by providers of professional and personal services. Passed House 2/27/04. Referred to Senate Finance Committee.

House Bill 4390. Making tongues-splitting a crime unless performed by a physician. Passed House 3/4/04. Referred to Senate Health and Human Resources Committee, then Senate Judiciary Committee.

House Bill 4412. Requiring the Children's Health Insurance Board to submit a modification of its benefit plan. Passed House 3/3/

04. Passed Senate Health and Human Resources Committee 3/9/04. Senate third reading 3/11/04.

House Bill 4434. Expanding the possible venues where a child neglect or abuse petition may be filed. Passed House 2/19/04. Referred to Senate Judiciary Committee.

House Bill 4467. Relating to the payment of expert fees in child abuse and neglect cases. Passed House 2/20/04. Referred to Senate Judiciary Committee.

House Bill 4489. Imposing a lien and recovery for unpaid child support on the proceeds due a child support debtor from a settlement, judgment or award. Passed House 3/3/04. Referred to Senate Judiciary Committee.

House Bill 4517. Finding and declaring certain claims against the state and its agencies; directing the W. Va. Auditor to issue warrants for the payment thereof. Passed House 3/1/04. Passed Senate Finance Committee 3/8/04. Removed from Senate calendar 3/10/04.

House Bill 4521. Relating to Department of Environmental Protection reportage concerning underground storage tanks. Passed House 3/3/04. Passed Senate Energy, Industry and Mining Committee 3/8/04. Referred to Senate Finance Committee on second reading 3/8/04.

House Bill 4531. Continuing the Public Employees Insurance Agency Finance Board. Passed House 2/23/04. Referred to Senate Government Organization Committee.

House Bill 4535. Providing relief from property taxes for property damaged or destroyed in a disaster. Passed House 3/3/04. Passed Senate Judiciary Committee, as amended 3/9/04. Referred to Senate Finance Committee on second reading 3/9/04.

House Bill 4598. Restricting courts from requiring conditions on the out-of-home placement of children consistent with existing licensing regulations. Passed House 3/3/04. Senate Judiciary Committee approved 3/5/04. Passed Senate, as amended 3/9/04.

House Bill 4605. Clarifying certain provisions of the state Code as relating to domestic violence offenses and related protective orders that are issued by the courts. Passed House 3/3/04. Referred to Senate Judiciary Committee.

House Bill 4627. Honoring academic performance of West Virginians graduating from U.S. military academies. Passed House 3/1/04. Passed Senate Military Committee 3/5/04. Removed from Senate calendar 3/10/04.

House Bill 4649. Providing for greater efforts for instate placement of children in the custody of the W. Va. Department of Health and Human Resources. Passed House 3/3/04. Passed Senate Judiciary Committee, as amended 3/8/04. Passed Senate with amended title 3/10/04.

House Bill 4655. Giving the Children's Health Insurance program the right of subrogation. Passed House 3/3/04. Passed Senate Banking and Insurance Committee 3/8/04. Referred to Senate Judiciary Committee.

House Bill 4660. Providing for the disposition of funds or assets recovered in a legal action or settlement by or on behalf of the general public, the state or its officers, agencies or political subdivisions. Passed House 3/3/04. Referred to Senate Judiciary Committee, then Senate Finance Committee.

House Bill 4739. Relating to legislative appropriation of tobacco settlement funds and strategic contributions fund. Passed House 3/3/04. Referred to Senate Judiciary Committee, then Senate Finance Committee.

Miscellaneous

House Bill 2801 (carryover). Requiring the W. Va. Ethics Commission to furnish copies of all Advisory Opinions issued by the EC to the Legislature and W. Va. Supreme Court of Appeals' Law Library. Passed House 1/23/04. Passed Senate Judiciary Committee 3/9/04. Removed from Senate calendar 3/10/04.

House Bill 3150. Barring state officers, agencies or entities from requiring that surety, payment, performance or bid bonds be obtained from any particular company. Passed House 2/11/04. Referred to Senate Government Organization Committee, then Senate Judiciary Committee.

House Bill 4009. Creating a position for a state American With Disabilities Coordinator within the W. Va. Department of Administration. Passed House 3/3/04. Passed Senate Government Organization Committee 3/8/04. Referred to Senate Finance Committee on second reading 3/8/04.

House Bill 4017. Prohibiting retailer licensees use of gambling names and symbols in advertising, signage, and directions to retail establishments offering limited video lottery games. Passed House 1/30/04. Referred to Senate Judiciary Committee.

House Bill 4020. Protecting personal information maintained by the state from inappropriate disclosure. Passed House 1/27/04. Passed Senate 2/9/04 Approved by governor 2/25/04.

House Bill 4021. Preventing the disclosure of personal information of state employees and officers, and their dependents. Passed House 1/27/04. Committee reference dispensed. Referred to Senate Judiciary Committee on Third Reading 2/2/04.

House Bill 4339. Clarifying the imposition of consumers sales tax and service tax on purchases made by providers of professional or personal services. Passed House 2/27/04. Referred to Senate Finance Committee.

House Bill 4354. Authorizing county commissions to adopt ordinances to reduce false alarms. Passed House 3/3/04. Referred to Senate Judiciary Committee.

Resolutions

House Resolution 6. Expressing the sense of the House of Delegates regarding the federal No Child Left Behind Act, specifically asking the President and Congress to waive certain accountability provisions for West Virginia and other states as long as these states maintain consistently high standards. Adopted by House 2/4/04. Completed legislative action.

House Concurrent Resolution 8. Requesting a study on the childhood obesity epidemic in West Virginia in regards to chronic disease, poor nutrition and inadequate exercise. Adopted by House 1/23/04. Referred to Senate Rules Committee.

House Concurrent Resolution 25. Requesting the three branches of state government to cooperate and encourage leaders of the state, county and municipal governments to identify and affirmatively address the racial disparities in various areas of civil rights. Passed House 2/26/04. Referred to Senate Government Organization Committee.

House Concurrent Resolution 28. Requesting that Sept. 12 each year be declared W. Va. Monarch Butterfly Day. Passed House 2/23/04. Referred to Senate Government Organization Committee.

House Concurrent Resolution 43. Requesting a study of proper and fitting activities to honor Abraham Lincoln on the occasion of the 200th Anniversary of his birth. Passed House 3/1/04. Referred to Senate Rules Committee.

House Concurrent Resolution 44. Requesting the Legislature to review, examine and study the feasibility and benefits of conducting classes for Grades 7-12 in the Constitution of the U.S. and the state Constitution. Passed House 3/9/04.

House Concurrent Resolution 51. Directing the Joint Committee on Government and Finance to make a study on the regulation of athletic and other extracurricular activities by the Secondary Schools Activities Commission. Passed House 3/9/04.

House Concurrent Resolution 59. Requesting a study on the feasibility of using juvenile detention centers at various locations across the state for the purpose of providing alternative education opportunities. Passed House 3/9/04.

House Joint Resolution 108. "Survivor's Education Amendment." Passed House 3/2/04. Referred to Senate Finance Committee.

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Coming Attractions...

Make plans now to participate in these upcoming educational events sponsored by the West Virginia School Boards Association:

Board Orientation

June 14-16

Charleston Marriott Hotel

- Orientation session designed to train new board members, as well as update veteran board members

Spring Teleconference

Date TBA

- For a review of the latest education mandates, grievances and court cases in West Virginia
- Features panel discussion
- Extensive session-related materials to aid in reviewing bills
- Howard E. Seufer, Jr., West Virginia School Boards Association legal counsel, to present program
- Registration fee covers unlimited number of county participants

Contact WVSBA for details.

Sound Bites

“There are going to be a lot of people happy out in the field.” – *Sen. Larry J. Edgell (D-Wetzel) in discussing House Bill 4001, which makes a number of changes in statutes regarding accountability, accreditation and educational standards as well as paperwork reduction.*

“We just don’t have any money. We’re trying to squeeze by. We’re trying to scrape together a budget, and we simply cannot do (pay raises) and still balance the budget.” – *Sen. Walt Helmick (D-Pocahontas) discussing a Senate Democratic caucus decision not to support pay hikes for teachers and judges.*

“They came up here and lobbied and got their own exemption while others have to pay. We’re going to fund education. We’re not going to fund it on one-time money.” – *House Education Committee Chairman Jerry Mezzatesta (D-Hampshire) in a discussion of an amendment to a Senate bill that would tax certain professionals to provide \$98.1 for public education.*

“All we’re asking is to give our folks information and let them decide.” – *W. Va. Education Association President Tom Lange discussing a plan to merge the state’s two teachers’ retirement systems. It would appear the measure is dead for this year. Employees would be asked to vote to approve the merger.*

Meanwhile in Nevada...

The Clark County, Nev., School District is canceling recess in elementary schools, and it’s because of the rigors of the federal No Child Left Behind Act, according to a March 9 article in the *Las Vegas Sun*. The district’s elementary students still have a 30-minute lunch period that includes time on the playground. There is also an allowed bathroom break in the morning and afternoon. School officials say recess consumes too much time. “You end up blowing 30 minutes of potential instructional time to gain the limited benefits of having recess. It’s become a luxury we can’t afford,” according to a Clark County school official quoted in the *Sun*. The newspaper also stated, “Another issue is that elimination of recess means teachers also don’t get a respite other than the lunch period, which is often used to prepare for the afternoon’s classes...” Some Clark County parents and Nevada officials are fighting the changes, saying teachers need a respite, that students need physical exercise, and that parents received inadequate notice of the change, except from unhappy kids. – *Las Vegas Sun* (March 9, 2004).

The Legislature

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West Virginia School Boards Association
PO Box 1008
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