



## ‘Mezzatesta mess’

# Lange: Hampshire Lawmaker Should Resign

Compiled by Howard M. O’Cull, Ed.D.

W. Va. Education Association President Tom Lange has called for former House Education Chairman Jerry Mezzatesta (D-Hampshire) to resign from the House of Delegates.

Lange first made comments to this effect in a late September appearance on MetroNews’ “Talkline.” He said Mezzatesta has lost credibility at the state Capitol amid allegations the nine-term legislator took part in a scheme to fend off allegations of lying to the state Ethics Commission and prosecutors.

Lange called on Mezzatesta to resign for “his benefit and the House’s benefit. He (Mezzatesta) should say, ‘Enough.’ It’s time for (Mezzatesta) to step up and say, ‘I’m not going to put the House through this.’”

### WVEA Endorses Mezzatesta Challenger

While Lange and the WVEA announced they are backing Ruth Rowan, Mezzatesta’s Republican opponent for the 50<sup>th</sup> Delegate District seat, the state Federation of Teachers, AFL-CIO hasn’t made an endorsement, according to July Hale, president of the group.

The state Legislature’s Commission on Special Investigations and Kanawha County prosecutors are investigating whether or not Mezzatesta and four other state employees allegedly fabricated a letter to deflect criticism that Mezzatesta improperly solicited state education grants for Hampshire County Schools where he works

as a \$60,000-a-year board office administrator.

Mezzatesta’s wife, Mary Lou, reportedly admitted to investigators that she dictated the phony letter to a state employee on loan to the HEC on July 1, when copies of the letter were hand-delivered to the state superintendent of schools and to state ethics commission offices.

### 93-Page House Report

The 93-page report can be accessed through the W. Va. School Boards Association’s Web site, WVSBA.ORG. (It is in PDF format, requiring Adobe Reader which can be downloaded from the site.) The report, commissioned by House Speaker Bob Kiss (D-Raleigh), when removing Mezzatesta from the HEC post in August, reads like a veritable “he said, she said” account of events regarding the fabricated letter—or like “a bad novel,” according to MetroNews’ Hoppy Kercheval. The appearance of the letter was first reported by *Charleston Gazette* reporter Eric Eyre, and has been the subject of considerable news coverage. The letter drew attention for two reasons: It was printed on stationary Mezzatesta didn’t use at the time it purportedly was written—verified by the release of HEC correspondence received by the governor’s office at that time—and no copies were available in W. Va. Department of Education files where the original letter would have been maintained.

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## Overview

### STATS

2004 Regular Session: *Adjourned Sine Die*  
Days Until 2005 Regular Session: 103  
Interim Meetings Remaining: October - January 2004

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### QUOTE

“If he wins, then he has some serious soul-searching to do. It comes down to credibility. When you mislead people, then your credibility is shot.” — *W. Va. Education Association President Tom Lange urging former House Education Chairman Jerry Mezzatesta (D-Hampshire) to “resign immediately” from the House of Delegates. WVEA has endorsed Mezzatesta’s challenger in the upcoming election.*

# NCLB Effects Becoming More Clear

By Jason B. Keeling

The state appears to be earning the “West Virginia Achieves” title, given better overall student testing performance in 2004 and increased confidence from W.Va. Department of Education officials and legislators, as they continue to address both strengths and weaknesses of the federal No Child Left Behind Act.

Five hundred and sixteen schools met NCLB’s adequate yearly progress requirement, an increase of 11 percent from last year, while 204 schools were red flagged for needing improvement, according to WVDE figures. Although the law requires a single accountability system, only federal Title I schools are subject to sanctions, and 38 (up from seven last year) state Title I schools now require some form of intervention.

However, the additional cost to the state has not been officially

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Other “serious, serious” issues cited

# Call for School Calendar Changes Nixed

*“There are serious, serious issues in public education that we need to be discussing...I’m not sure we’re looking at the right issue...I’m a little bit disturbed we’re here discussing the calendar again...”*

— Judy Hale, President of the state Federation of Teachers, AFL-CIO, at a Sept. 20, legislative interim meeting.

*“We don’t need to get into this calendar issue again...We don’t think the school calendar needs to be dealt with...the beginning and ending dates (of the school term)...(The calendar issue) is under the radar screen except for a vocal minority...”* — W. Va. Education Association President Tom Lange at the above interim meeting.

*“It’s more about baby-sitting than anything else...”* — W. Va. School Service Personnel Executive Director Bob Brown discussing proposed calendar changes that would alter the beginning and ending dates for the school term at the Sept. 20 interim meeting.

*“...(T)he best indicator of teaching and learning effectiveness is time on task, not simply ‘time’ and content over ‘time.’ Just ask any teacher whose class time is interrupted by assemblies, promotional events and the like. Here, county boards can do a better job...The education family...organizations have no unanimity in regard to (school calendar changes). Without unanimity, any proposals offered are likely to fail legislatively...”* — W. Va. School Boards Association Immediate Past President William J. Raglin (Kanawha) in his Sept. 20 address to the interim committee.

*“The state of education (in West Virginia) is very positive indeed...”*  
— Deputy State Superintendent Steven Paine, Ed.D.

By Howard M. O’Cull, Ed.D.

When it came to a Sept. 20 interim meeting devoted to discussions of the school calendar, specifically proposed changes, a central refrain emerged: Discussions aimed at revising or changing the school calendar—specifically in regards to a ‘minutes’ approach or by providing county boards ‘greater flexibility’ through eliminating the beginning and ending dates of the school term—amount to “chasing the wrong rabbit,” according to Hale.

Hale and Lange both say other issues should take precedence, especially discussions relating to teacher pay, with Hale commenting on the “disparity” between teachers’ pay and that of principals and central office administrators—a point she has made in several recent presentations. Both teacher organization officials say that, with the current calendar, state assessment test scores are improving, that ACT scores “continue to improve” as Lange put it, and that teacher pay may be a factor in declining ACT mathematics scores in that recently-graduated math and science teachers are drawn to higher pay out of state.

## ‘Do We Really Need RESAs?’

Teacher morale also is an issue—an issue more important than teacher pay, according to Hale, who said “most...teachers have forgotten how to smile.” Her remarks were in reference to a recent event honoring Teacher of the Year candidates. She said the state, through “redistribution of funds,” has the ability to increase teacher pay, adding, “do we really need (Regional Education Service Agencies)?” She ended her remarks by saying AFT officials “won’t be too politically correct when the session starts,” then said state ‘tobacco settlement’ moneys, increases on oil and gas companies and other measures could provide dollars for a teacher pay raise.

Lange reiterated Hale’s remarks regarding teacher pay, saying that more emphasis should be placed on teachers’ staff development. He also said legislators and other policymakers should be “educating the public” about the effectiveness of current educational policies. “It’s not our burden alone,” he said.

## ‘Vocal Minority’

In answer to a question by Del. Robert Beach (D-Monongalia) who said the public sympathizes with maximizing instructional time, Lange said that, except for a “vocal minority” of individuals, the issue was “under the radar screen.”

Beach and other committee members also informed Hale and Lange they were “preaching to the choir” in regard to teacher pay.

## ‘261-Day Contracts’

Brown focused on county boards’ payment of employees on a 261-day contract, saying if boards of education could find a way to pay a 261-day salary out of the school year, they could find 180 days for instruction.

Raglin, in his comments, praised the Legislature for its interest in the instructional time issue. He suggested, in terms of flexibility, that county boards should be granted latitude in regard to removing the mandatory beginning and ending dates of the school term. He,

**The Legislature** provides county board of education members, state policymakers, school administrators, and others information, opinion and commentary regarding West Virginia legislative issues. This publication does not necessarily reflect the official views, opinions or policies of the WVSBA, unless specifically stated.

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however, said county boards should be more vigilant in protecting instructional time, especially extemporaneous interruptions during the school day. “Here, county boards can do a better job,” he said.

### ‘Quality Time’

As far as for banked time, Raglin said the emphasis should be on “the quality of this time.” As for emphasizing “minutes” over instructional days—a notion proffered by Del. David Perry (D-Fayette)—Raglin said the federal No Child Left Behind Act requires “a certain need to focus on maximizing instructional time. What if the ‘minutes’ are met, but instructional progress and achievement is lagging” he asked? He also said schools aren’t “framed around” minutes, and that further study, especially “what other states” are doing, should be considered before the Legislature adopts any “shift” to a “minutes” concept. He said the approach would “lead to inconsistency throughout the state in terms of when school ‘ends’...and will lead to undue emphasis on achieving minutes so that school can ‘end.’” He also cited problems with the concept such as block scheduling, bus schedules and “other logistics” which, he said, “make this concept impractical.” Raglin, speaking on behalf of WWSBA, did call for flexibility in revising the beginning and ending dates of the school term.

Raglin’s central point, however, was that until the “education family” can agree on calendar reforms, legislative emphasis in this area will be fruitless.

### WWSBA Recommendations

The Kanawha County board member made two central recommendations. They are:

- Completion of a “formal study of instructional issues independent of interim meetings.” He said this study, while involving education interests, should be comprised of a broad-based panel: “Let’s see what parents think; what businesspersons think; what constituencies other than the education community think...”
- Concentrating on “what’s possible and practical,” given the above study. Raglin rejected employee association claims that the school calendar could “omit” scheduling “around deer season,” students’ participation in state boys and girls basketball tournaments and by limiting “extracurricular or co-curricular activities.” “(These) ideas are well and good except they are impractical and won’t be accepted by the public—or school employees,” he said.

### Present Statutes Work

Deputy State Superintendent Steve Paine, who spoke on behalf of the W. Va. Department of Education, had few specifics to say in regard to the calendar issue, but did say the emphasis should be on staff development. He also said 19 of the state’s 55 counties were able to achieve 180 days’ instruction (including the five mandatory Instructional and Enhancement Days). “The current statutes are working well,” he said. Given this information, Paine said county boards should be urged to obtain 180 days instruction “within the calendar.” (None of the 19 county boards cited above were ‘snow belt’ counties, leading Cabell County legislator Kelli Soboyna (R) to say, ‘a child in Mineral County deserves 180-days instruction just like a child in any other county.’”

Office of School Finance Executive Director Joe Panetta, who accompanied Paine along with WVDOE legal counsel Rebecca Tinder, said he thought county boards should be granted greater flexibility in terms of removing the beginning and ending dates of the school term, noting that only two states who are members of the Southern Regional Educational Board—North Carolina and West Virginia—have such a statutory requirement. Panetta, however, reiterated that 19 counties were able to achieve West Virginia’s required 180 days instruction.

In terms of legislators’ comments and questions, most of the deliberations focused on the merits of bank time, with Del. Perry stating, “we’re (educators) still not given credit for overtime work.” Sen. Tracy Dempsey (D-Lincoln) also said that, with banked time, counties scheduling or achieving 178 days’ instruction could actually be “getting” 180 days instruction.

In the committee meeting, Paine also discussed several matters relating to West Virginia Achieves and the federal No Child Left Behind Act. He also told legislators that the W. Va. Board of Education had yet to formalize its educational goals and that he was speaking on behalf of the WVDOE.

Paine began his remarks by saying the state of education in West Virginia is “positive indeed” and that state educators should be commended for a job “well done” in terms of NCLB.

Raglin’s remarks were presented to the WWSBA delegates for “clearance” prior to his presentation.

— *O’Cull is WWSBA executive director.*

## 1988 ‘impimatur’ cited

# O’Cull Suggests Systematic Reforms

Speaking to the W. Va. Board of Education Sept. 8, W. Va. School Boards Association Executive Director Howard M. O’Cull, Ed.D., outlined five areas of educational policy which he says are in need of systemic reform.

Tracing the “imprimatur” of current educational policy to **Senate Bill 14** (1988 Special legislative session), O’Cull told WVBOE members “we are at a unique juncture with public education in West Virginia and that much, in terms of educational policy direction, will be set by the next governor, working in concert with this board (WVBOE) and the Legislature.”

O’Cull then proceeded to discuss what he called the need for “policy refurbishing on several fronts,” listing educational efficiencies as one area for reform as well as a new view of “legislative prescriptions.”

### Facilities Efficiencies

In terms of efficiencies, O’Cull praised the School Building Authority of West Virginia for its many accomplishments, but said the agency was in need of “some new directional emphases.” He specifically cited the need for greater “cross-county” school consolidations, citing SBA executive director Clacy Williams several appearances before WWSBA members outlining at least a dozen or more instances where “cross-county” school consolidations “make imminent sense.” O’Cull, in answer to a question from WVBOE Secretary Lowell Johnson, said the state board could play a role of “nudging” county boards in this policy direction—a role the board (and SBA) has been hesitant to take in the past. O’Cull, in an answer to a follow-up question by Johnson, said some laws may need changed to encourage greater “cross-county” consolidations but

that the state board has, within its current powers and means, the ability to urge county boards to take this approach—first by facilitating discussion along these lines.

### **Administrative Efficiencies**

O’Cull’s second point related to the need for policymakers and state and county-level officials to have a “serious conversation” regarding what he termed “administrative efficiencies.” He cited a state law (§18A-4-8d) which authorizes county boards to share administrative services. He said the value of such an approach would be to provide a greater array of specialists, directors and other central office administrators to some county boards having eliminated those positions due to downsizing and it would end “central office duplications” in areas such as that of treasurers, certain business officials and other positions, freeing up or “creating” positions that concentrate on improving student achievement. O’Cull cited a monograph he authored in 1993 which outlines such an approach. But he told WVBOE members that any moves toward sharing of administrative services might not result in fewer employees—but “different kinds of employees,” employees he said could be “closer to the classroom.” When asked about the approach, W. Va. Association of School Administrators legislative chairman said while the approach was no “panacea,” it would work were there was “cooperation.” WVBOE secretary Priscilla Haden asked if WVSBA had discussed this approach. O’Cull said the ideal had been discussed for “about the last three years,” but it would be given more formal review in the upcoming association legislative meetings.

### **State Aid Formula**

In his third point, O’Cull also called for a “serious conversation” by policymakers and stakeholders regarding the state school aid formula. Saying he knew the formula was “sacrosanct,” O’Cull said “devices” such as the Education Weekly “Quality Counts” reports and the like amount to “happy talk,” especially when one superintendent must take out the garbage nightly due to shortage of custodians and when one county superintendent served as her own “secretary” and special education director. He also cited the example that two Eastern Panhandle school districts “survive” due to funds supplied at the direction of the chairmen of the House and Senate Education Committees. O’Cull told WVBOE members, “Folks, it’s a new day. In the least we need to have serious discussions

regarding the school aid formula and school funding which you (WVBOE members), in concert with the new governor, can promote.” He then said both gubernatorial camps “aren’t opposed at least to discussing these notions.”

### **Budget Digest**

In other matters, O’Cull informed WVBOE members that the association has commissioned a study of Budget Digest funding and that the study is being undertaken “without prejudice” or “preconceived notions” as to the “effects” of Digest funding. He said a central area of review will be whether or not Digest funding creates further disparities and inequities “within counties” (intra-district inequities). He said the study also will “prove” whether or not much of the Digest funding goes toward “athletic facilities and purposes” and even for “purposes contrary” to county board goals and funding objectives.

### **Ethics Law Reforms**

His final point was made in terms of ethics, with O’Cull saying “the (state Ethics Commission) has had no trouble in saying that county board members can’t serve on development boards, airport authorities, certain economic development groups, etc.,...but the Commission also needs to concentrate on other aspects of governance such as the state Pecuniary Interest statute (§61-10-15) and its conflict with Ethics laws themselves.” O’Cull also said, in light of the situation involving former House Education Committee Chairman Jerry Mezzatesta (D-Hampshire), the entire “Ethics statutes need full review and consideration” and that the association would be “working with” legislators to offer some suggested changes.

In terms of other items, O’Cull said WVSBA has provided “historical” support for teacher pay increases “as determined by the Legislature,” that the “Pre-K program” should be preserved, and that the Legislature and policymakers should have a greater appreciation for “process” and deliberation in decisionmaking.

Other presenters included representatives of teacher organizations, WVASA, principals’ groups and the state School Service Personnel Association.

The WVSBA legislative committee will meet October 15 at Davis (Canaan Valley Resort and Conference Center).

O’Cull is the association’s legislative committee chairman as specified in WVSBA’s *Bylaws*.

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## **HAMPSHIRE LAWMAKER**

*continued from page 1*

In the House report – none of the 18 witnesses were interviewed under oath – it would appear the letter was crafted to fend off a charge that Mezzatesta was seeking to procure moneys for his school system, based on correspondence from the state superintendent regarding a conversation where the superintendent said \$100,000 in funds likely could be found for a HCBOE project based on a conversation between him and Mezzatesta.

### **‘Silencing Critics’**

Based on the interviews, the letter was allegedly crafted not only for the above reason but to silence Mezzatesta critics, including *Gazette* reporter Eric Eyre and West Virginia Wants to Know official Wanda Carney, who said he was violating an agreement he had with the state Ethics Commission regarding no soliciting of grants from state officials.

Mary Lou Mezzatesta, in fact, is quoted in the report as saying

she didn’t think the matter was a “big deal” at the time and that it was for the purpose of allaying criticism of the HEC chairman—and that the action took place after the EC, in June, had “cleared” Mezzatesta. Mezzatesta’s critics said last week that the lawmaker is “hiding behind his wife,” who works as a HEC office assistant during the legislative session. “There’s a tractor-trailer of an investigation, and he (J. Mezzatesta) wants to throw his wife under the wheels of the truck,” said WVWTK co-founder Carney.

Based on various press and news media accounts, those involved in the matter are being interviewed by prosecutors—under oath. While the House Speaker has received some criticism for not having required House investigators to conduct their investigation by placing those involved under oath (certain legalities prohibited such, according to some sources), other officials say the report, as provided to Kanawha County Prosecutor Mike Clifford’s office, provides ample format for prosecutors to take the investigation to any “higher level” necessary, especially given the contradictory nature of the witnesses’ responses. WVWTK’s Carney also said she has learned that Clifford’s report will be “out” prior to the mid-Novem-

ber date the prosecutor said it would be available. Carney wouldn't reveal her sources, but said the individuals were "close to the matter."

### **'No Direct Link'**

Several officials involved in the investigations, however, point out that there has been no direct link of J. Mezzatesta to the fabricated letter, although the *Gazette* reports that two House employees have given statements to investigators suggesting that the lawmaker knew about the phony document the day it was written—not in mid-August as Mary Lou Mezzatesta told House investigators. (The *Gazette* didn't provide names of the two employees.)

Clifford, in newspaper interviews said his report won't be "personal for me. My decision will be made following a complete investigation."

In discussing the report, Kiss said he was "hurt" to learn of the alleged actions of some of the persons involved. He said, in a MetroNews interview, that he was "not happy" that people he counts on to help him make informed decisions have been "intentionally misleading."

### **Other Developments**

These are among other recent developments in the matter:

- Some Hampshire county citizens are calling for Mezzatesta's removal as a HCBOE employee, saying his continued work and presence in the school system is a distraction, hurting the credibility of the system. On advice of legal counsel, the HCBOE, meeting September 27, didn't issue an expected statement regarding release of the House report. Legal experts say that Mezzatesta's taking of sick leave – he has announced that he has prostate cancer – makes any removal from office "problematic," given state school employee personnel laws and that the Kanawha County Prosecutor's investigation (and a suspected 'second' Ethics Commission investigation) are yet to be completed. HCBOE superintendent David Friend also is taking a medical leave of absence. A citizens group also has called for his removal from office.

- As stated above, Lew Brewer, head of the state Ethics Commission, was quoted in an September 28 "Talkline" interview as saying the Mezzatesta matter could "expand into a second investigation." Brewer also said, "(The House investigation) isn't conclusive one way or the other into what we are looking into, but it's certainly helpful." Brewer said the report will be of value in determining who is telling the truth and who isn't. Any EC report will be issued within 30 days, according to Brewer (or longer based on scheduling hearings with those involved). The EC is confining itself to the question of whether or not Mezzatesta committed a violation by soliciting state funds for the HCBOE, his employer, as he said he wouldn't in a 1999 agreement with the commission.

### **Possible House Sanctions**

- House Speaker Kiss has announced that he will wait until after the October Interim meetings before considering actions, if any, to discipline those involved in the Mezzatesta matter. According to Kiss, he will solicit input from both Democrat and Republican delegates.

- The state superintendent has issued an Interpretation saying there's nothing illegal about "double-dipping" – legislators collecting state and county salaries simultaneously. (This matter apparently isn't part of the current EC investigation.) Observers note that the Interpretation, requested by WWTK co-founder Tifney Terry in May, was issued *after* the Speaker removed

Mezzatesta from his post, as had been expected. Many attorneys familiar with the matter say that, despite the practice being odious perhaps, it clearly isn't illegal under state law. In his opinion, however, Stewart said the law, which Mezzatesta has repeatedly cited in media interviews and to the EC over the past five months, doesn't guarantee that teachers and administrators will continue to receive their school board salaries while serving in the Legislature. He also said the school employees shouldn't be allowed to take paid "professional leave" to serve in the Legislature. Teachers and administrators normally take such leave to attend conferences and training seminars.

- Add Del. Cindy Fritch, a Republican legislator from Monongalia County, as the first legislator to go on record supporting a reprimand of Mezzatesta and staffers involved with the "letter incident."

### **WVBOE Asked to Investigate**

- Candy Canan, vice president of the Hampshire chapter of WVEA, appeared before the state Board of Education in September, asking the board to investigate "questionable practices" by top Hampshire school officials. She says moneys may have been misappropriated, asking the state board to have the Office of Educational Performance Audits investigate. She says the Mezzatesta matter has thrown the HCBOE central office into "turmoil." Canan told W. Va. Board of Education members that two of the five county board members welcome an investigation of Mezzatesta and Friend.

- The WVBOE will, for the first time, begin to scrutinize grants distributed by the W. Va. Department of Education to county school systems in West Virginia. State board members directed Superintendent David Stewart to provide monthly reports that detail education grants requested by legislators. Board members also are reviewing all discretionary grants over \$1,000 that Stewart allocates from the WVBOE's unclassified account. (Grant review and approval was one of several recommendations presented to the WVBOE in a presentation made by W. Va. School Boards Association Executive Director Howard M. O'Cull, Ed.D., when he and WVSBA counsel Howard E. Seuffer Jr., Bowles Rice McDavid Graff & Love, provided consulting services for the state board last spring. At the time, only former WVBOE member Lloyd G. Jackson II [Lincoln] showed interest in the proposal.)

- The *Gazette's* Eyre has found "evidence" that Mezzatesta began making requests of WVDOE officials, including state superintendent Stewart, as early as 2001. Stewart was appointed state superintendent in 2000. Reportedly, most of the grant appropriations have been made out of assistant state superintendent Stan Hopkins' office. Hopkins oversees vocational and technical education. (Mezzatesta was a former vocational/technical school instructor.)

### **'Improper Classification'**

- Although Mezzatesta works as a "community specialist" for the HCBOE, the board has reported that he works as a "curriculum specialist," which entitles the district with state school finance funds to pay for the position. Stewart said WVDOE officials will investigate the matter, although Stewart is quoting as telling a *Gazette* reporter that Mezzatesta's position wasn't flagged because he's certified to teach and work as a curriculum specialist. Through a Freedom of Information Act request, the *Gazette* has shown that, as community specialist, Mezzatesta sent six form letters to schools and school employees since 1999. The headline read, "Little proof

of Mezzatesta's board work."

### **Plymale**

• State Republican leaders say they will ask the EC to revisit an opinion that cleared the way for Senate Education Chairman Robert H. "Bob" Plymale (D-Wayne) to become director of the Nick Joe Rahall II Appalachian Transportation Institute and Marshall University. GOP officials are quoted as saying one of the "worst-kept secrets" in West Virginia is that Plymale is a Marshall University employee and thus, based on the state Constitution, not eligible to serve in the Legislature. Technically, Plymale is employed by the MU Research Corp., a nonprofit 501(c)(3) corporation. Republican party officials contend that Plymale is either a state employee – because he reports to MU President Dan Angel – or a federal employee, because the institute draws about half of its funding from the U.S. Department of Transportation. Although Plymale has made no comments on the matter, his attorney – a former GOP leader – says nothing in the state's ethics laws prevents Plymale from serving as long as he makes "every effort to avoid taking official legislative action on matters which would uniquely affect the university."

• Sen. Mike Ross (D-Randolph) has told several news organizations he will fight an EC complaint filed against him for failing to recuse himself from a vote on using \$750,000 of tourism grant moneys to underwrite this summer's professional golf tournament at the Pete Dye Golf and Sporting Club near Bridgeport. The state Citizens Action Group filed that EC complaint.

### **Effect on Stewart**

• WVWTK's Carney and Terry are saying that the state superintendent's involvement on the "periphery" of the "Mezzatesta mess" has undercut the "moral authority" of his position, especially if the state superintendent were to recommend actions such as intervention in Mingo County Schools or the like. Other observers say this is "over-read" or "wishful thinking" on the part of Stewart critics, noting that WVBOE members have asked Stewart to "monitor" the Mingo County situation. Carney and Terry have said they have filed an EC complaint against Stewart (and HEC vice chairman Larry A. Williams [D-Preston]). WVWTK's Stewart complaint allegedly involves his affidavit regarding Mezzatesta's solicitations of funds which, in the House investigation, his counsel contacted Mezzatesta's attorney saying the state superintendent could no longer stand by the affidavit. Legal experts say that isn't a matter

over which the EC has jurisdiction, although Kanawha County prosecutors may. "False swearing" is a misdemeanor. Sources cited in press accounts say Stewart isn't the subject of most of this investigation. WVWTK also says Steven Paine, deputy state superintendent, has been more visible than Stewart in recent days, including the September interim meetings. WVDOE officials say Stewart's schedule prevented him from attending those meetings and presenting as he normally does to a joint House/Senate legislative committee. (It isn't unusual for the deputy superintendent to present at interim meetings, as former deputy Bill Luff did.) WVWTK officials also say that the "Stewart 'Teflon' is bound to fail eventually. First, there was G. A. McClung and now this," said Carney. Other observers note that Stewart has support of legislators and that the *Gazette* has not concentrated on his "involvement." NOTE: As this writer has written in past issues of this publication, one has to understand and appreciate the complexity and depth of the situations involved, not to concentrate on one or a few of the incidents.

### **Replacement**

Finally, who will replace Mezzatesta? Best bet, according to several legislators, legislative hangers-on, and lobbyists: A sitting vice chairman of a House committee. Possible names from that arena include John Doyle (D-Jefferson), vice chairman of the House Finance Committee and Steven K. Kominar (D-Mingo), judiciary vice chairman. Other names getting a boost in the last few weeks include Del. Mary Poling (D-Barbour), retired mathematics teacher who's served on the HEC during her two terms in the Legislature and Del. Richard Browning (D-Wyoming). In the past, WVEA has had favorable nods toward Browning. A consensus: Del. Williams will neither become committee chairman—or serve on the committee. Reason: His "loyalty" to Mezzatesta.

### **Poetic Justice?**

Mezzatesta challenger Rowan has told the *Gazette* she decided to run for Mezzatesta's seat when the Hampshire lawmaker proposed that Stewart's salary be increased by about \$60,000.

The House report is available online at <http://www.legis.state.wv.us/MEZZATESTA-ALL.pdf> or via WWSBA.ORG

The above is compiled from various news media accounts and information available from MetroNews Web site, and WVWTK press information and briefings.

— *O'Cull is WWSBA executive director.*

# THE PRESIDENTS RETREAT

**October 15/16  
Cannan Valley Resort**

- Effective Decisionmaking
- The Legal Side of Things: Board Officer Responsibilities
- Trends & Issues in Public Education

- Review of Preliminary Budget Digest Study
- Round Robin Discussion and Networking

*These items and more to promote education leadership in West Virginia. Committee on Legislation meeting to be held prior to retreat.*

# NCLB EFFECTS

*continued from page 1*

established. WVDE officials estimate that “very small numbers” of parents at the above 38 schools will exercise school choice.

As the effects of NCLB are taking shape, proactivity is required by all education stakeholders, according to Deputy State Schools Superintendent Steve Paine, who commended teachers and administrators for communicating with parents about the law and supporting its intentions to improve student achievement. Paine’s comments were presented before the Legislative Oversight Commission on Education Accountability on Sept. 21.

Paine provided the following figures: 67 percent of students met mathematics proficiency, 77 percent of students met reading/language arts proficiency, 89 percent of schools met graduation rate requirements, 100 percent of schools met attendance requirements, 99 percent of schools met testing participation requirements, and 150 schools corrected their year one problems.

WVDE Science Coordinator Michael Kees said the department would focus more on strengthening the science and mathematics instructional capabilities of elementary teachers. Secondary students on a professional pathway are now required to take an additional science credit and the W.Va. Educational Standards Test’s writing assessment will be fashioned similarly to the ACT’s new format in 2006, according to Paine.

In order to enhance public understanding of WESTEST re-

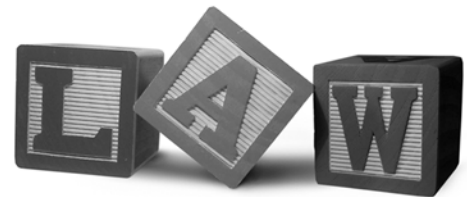
sults, the WVDE would be providing superintendents training on ways to best work with communities to interpret test results and help struggling student populations, said Paine. He added that the state would “absolutely” be able to assist low-socioeconomic students through the efforts of a newly created Office of Instructional Support Services and the passage of **House Bill 4669**, which allows for the creation of professional development schools in the state’s ten largest minority and low-SES student counties.

The WVDE also planned to approach the U.S. Department of Education for additional changes to the state’s accountability plan, such as modifications to special education testing requirements, according to Paine. Of this year’s 206 flagged schools, 136 were identified due to their special education population performances. Sen. Larry Edgell (D-Wetzel) suggested that efficiencies could be created by identifying services specifically for the student subgroups that fall short.

Sen. Robert Plymale (D-Wayne) said he was serving on the National Conference of State Legislatures’ education committee, which had met with USDE officials to discuss modifications to NCLB such as allowing supplemental education services to be provided as a first choice for sanctioned schools. He commended USDE officials for their receptiveness and said that committee would reconvene in October and December, issuing its final NCLB recommendations in January.

— *The writer is owner of Keeling Strategic Communications, Cross Lanes.*

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# - Odds and Ends -

...**School Consolidation.** Republican gubernatorial candidate Monty Warner said last Wednesday that school consolidation is a result of economic problems caused by Democratic career politicians. He said the result is an “impulsive need to consolidate schools. Our communities are built around local schools, our children thrive and receive the best education in local schools.” According to Warner, he would oppose consolidation efforts not approved locally by county boards, citing the W. Va. Board of Education’s intervention in Lincoln County as an example. While Democrat gubernatorial candidate Joe Manchin has said he also supports community schools, he has issued few other specifics during his campaign. The small schools group Challenge West Virginia has asked that electoral candidates offer specifics if voicing support for local, community or small schools.

...**Lawmakers’ Disclosure and Reporting Laws.** The Center for Public Integrity gives West Virginia an “F” when it comes to required reporting about politicians’ finances and backgrounds. According to the organization, the state’s reporting laws leave the public with little information about officeholders’ potential conflicts. The Center cited state laws as weak in that they don’t require disclosure of property holding, spouses’ property and financial holdings and the fact such information isn’t placed on the Internet for easy access. Interestingly, the Center said the state almost doubles the national average for having lawmakers who are employed by other governmental entities—often educational entities. The group says the state also has an abnormally high number—42 percent—

of lawmakers serving on committees that oversee their business interests. Again, this includes the several educators who serve particularly on the House Education Committee which has drawn recent interest from the *Charleston Gazette*. Also cited: No requirement for lawmakers to disclose the boards or businesses and agencies on which they sit.

...**Charter Schools.** West Virginia shouldn’t dismiss charter schools. That’s the conclusion of an op-ed piece written by Tim McClung, head of the University of Charleston’s Entrepreneurship Center. McClung discussed the issue from the vantage of what he said are some “charter-like” educational initiatives, including the House Bill 4669 pilot effort to close the achievement gap now headed by W. Va. Department of Education official Jorea Marple, Ed.D., state alternative schools, Local School Improvement Councils (which can seek waivers from certain county and state regulations and which can make recommendations for waiver of statutes), and the W. Va. Board of Education’s alternative teacher certification proposal. McClung says these initiatives are a “stone’s throw away from charter schools,” but that they lack a “sustained impact on the entire (educational) system.” In recent months, research showed that charter school students didn’t fare better on standardized testing and that some charter schools weren’t operated effectively. The concept arose a few years ago as an attempt to allow schools in certain areas—or with certain discrete missions—to operate outside conventional state education systems, directives and requirements. A House Education Committee group discussed charter schools in 2001.

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## The Legislature

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