



## Lawmakers would set RESA funding amount

# SEC approves net enrollment bill

Refer to **Administrative Perspective**, page 8

Two major bills of importance to county boards of education and county school superintendents edged closer to passage this week. The Senate Education Committee approved the House's net enrollment bill, **House Bill 2857**, and **Senate Bill 750**, a measure relating to Regional Education Service Agencies.

Meanwhile late Thursday afternoon, the House Education Committee considered **SB603**, which is designed to provide greater flexibility to Marshall University and West Virginia University. SB603 also includes provisions relating to the Center for Professional Development (CPD). Once adopted by House Education, the CPD provisions will be reviewed in the April 7 issue of *The Legislature*.

In floor action, the House of Delegates, by a unanimous roll call vote (99-0), approved **HB2365**, which prohibits county board members from acting individually or singularly unless authorized by law. That bill was referred to the Senate Education Committee.

For bill provisions, refer to the March 10 and March 25 issues of *The Legislature*.

The bill, as passed by the House, contains language recommended by the West Virginia School Boards Association, although some association members said they are opposed to the measure.

## Net enrollment bill moving through Senate

At its Thursday afternoon meeting, the Senate Education Committee adopted an amended **HB2578**, a measure that would increase the ratios of professional and school service personnel per 1,000 students in net enrollment.

The legislation, adopted by the House March 28, establishes the increased ratios for the next three fiscal years.

The measure establishes a \$2.5 million annual appropriation for those next three fiscal years, with appropriations to cover a total 12 fiscal years.

Senate Education amended the bill to repeal a Code section that establishes the West Virginia Science Education Enhancement Initiative Grant Program.

Committee counsel Hank Hager told members the legislation came from the settlement of the *Tomblin v. Gainer* school finance case several years ago.

As part of that settlement, the state superintendent recommended increasing net enrollment caps. In 2002, the Legislature adopted that legislation, which is effective in FY06, according to Hager and committee chairman Bob Plymale, D-Wayne.

See **NET ENROLLMENT BILL** on page 4

## Overview

### STATS

Day of Session:	52
Days Remaining:	8
Bills Introduced (not including pre-filed bills):	2,113
Education Bills (WVSBA count):	434

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### QUOTE

“We have no philosophical problem in playing a (football) game. We’re just trying to find out how to do it...” – *West Virginia University President David Hardesty answering a question by House Education Committee member Danny Wells, D-Kanawha, regarding whether or when WVU and Marshall University would play each other in football. The two teams last met in 1997 — then for the first time since 1923.*

## May leadership meeting to review new laws, monitoring

The West Virginia School Boards Association May 20-21 leadership meeting will be at Lakeview Scanticon Resort and Conference Center near Morgantown. The meeting will focus on legislation and secondary school scheduling as well as practical issues, such as how to provide monitoring and oversight.

The meeting will cover laws adopted during the 2005 Regular Session and will replace the Spring Training Teleconference. WVSBA counsel Howard E. Seuffer Jr. is the presenter. As in past programs, legislators are invited to participate in the legislative portion of the program. WVSBA Executive Director Howard M. O’Cull, Ed.D., is developing the monitoring program that will address current issues, such as those that affected Hampshire County.

WVSBA has sent registration forms to county board executive secretaries. Please contact your county board to register for the conference. The deadline to reserve rooms at Lakeview is April 18.

For more more information, contact WVSBA conference registrar Shirley Davidson at (304) 346-0571 or [sdavidson@wvsba.org](mailto:sdavidson@wvsba.org). Please let Davidson know if you have special dietary needs or require special accommodations.

## Teachers could leave indefinitely yet maintain status

# HEC approves seniority, enrollment bills

By Jason B. Keeling

Earlier this week, the House Education Committee amended legislation to enhance personnel rights for existing professional employees. **House Bill 2855** would allow such employees to leave their county school system for an unlimited amount of time, yet retain their seniority for purposes of re-employment.

Such priority could only be granted when an open position is posted, preventing an applicant from “bumping” an existing employee. Currently, state law allows professional employees to pick up their seniority only once they are rehired. “This would put the seniority back in the hiring process,” said HEC Chairman Thomas Campbell, D-Greenbrier.

Last week, the committee discussed the bill, which originally would have eliminated seniority once the employee was unemployed within a school system for 10 years. After a subcommittee reviewed it, it was reintroduced in its current form. According to HEC staff, the original bill was mistakenly drafted, and the amendment restored it in the manner intended by the bill sponsor, Speaker Robert Kiss, D-Raleigh.

Del. Patrick Lane, R-Kanawha, voiced concern regarding the indefinite leave period, but the bill was unanimously moved to the House floor.

### Projected enrollment funding

The committee also approved **Senate Bill 604**, which would require the Legislature to appropriate funds sooner to counties for increased net enrollments. It also would fund children under the age

of five.

Currently, funding for increased enrollment is allocated only after a school system’s actual second month enrollment is determined.

This bill would require the West Virginia Board of Education to outline a process in which counties could project increased enrollments, and receive 60 percent of the funding for such by Sept. 1 of the school year, with the remaining funding to be allocated by Dec. 1.

If a school system overcalculates the increase, it would have to refund the amount by the end of the fiscal year.

The bill was amended to allow counties with net enrollments of fewer than 1,400 students to make cooperative arrangements with adjoining counties to help reduce costs without compromising services. The amendment also would permit the state schools superintendent to provide such counties with a grant, subject to available funds, if the former option is not effective.

SB604 included no fiscal note and would be effective July 1. It is similar to **HB2801**, and according to Campbell, SB604 could likely be referred to a conference committee between the two legislative bodies to work out differences. “The House will hold on its version,” he said.

In other action this week, House Education on Tuesday approved:

**House Bill 3130.** The measure would require local health departments to conduct school sanitary inspections annually or as often as necessary in regard to sanitary conditions. The West Virginia Board of Education (WVBE) would receive reports regarding serious or ongoing issues, as would the commissioner of the state Bureau of Health.

**HB3359.** This bill would clarify procedures used to fill the position of an absent bus operator. Under terms of the bill, regularly employed school bus operators within the same building or working station would be offered “first... opportunity to fill the position of the absent (school bus operator) on a rotating and seniority basis with the substitute (school service employee) then filling the regular employee position.”

A proviso states that the offer to fill the position shall “only be made to the first employee before filling the position with the substitute,” and that “school bus operators shall be offered the opportunity to fill the extracurricular assignments of absent school bus operators in the same manner.”

**HB2662.** This measure relates to granting campus police at private higher education institutions law enforcement powers. The bill outlines several procedures, including required training for these law enforcement officers; restrictions as to where the officers would have jurisdiction; and, the ability of the higher education institution to provide these officers with firearms and uniforms.

Provisions related to the Center for Professional Development, which are included in SB603, will be reviewed in the April 7 issue of The Legislature.

— *Keeling is a public relations consultant. Keeling Strategic Communications is based in Cross Lanes. WVSBA Executive Director Howard M. O’Cull, Ed.D., contributed to this article.*

**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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# Coming Soon

## WVSBA Leadership Meeting

*Lakeview Resort  
Morgantown  
May 20-21, 2005*

*For more information regarding this conference, please contact the WVSBA at 304.346.0571 or Conference Registrar Shirley Davidson at [sdavidson@wvsba.org](mailto:sdavidson@wvsba.org).*

### *Lobbyist upset over fiscal note issue*

## Bill would reward certified counselors

*By Jason Keeling*

Lobbyist Jason Webb, who represents the West Virginia School Counselors Association, is still fuming over an “original” \$16 million fiscal note attached to a bill, **House Bill 2465**, that would have provided school counselors who have “national board certification” a \$2,500 bonus.

Additionally, the bill would have covered school nurses, school psychologists, and speech and hearing pathologists.

Webb says that the \$16 million fiscal note prepared by the West Virginia Department of Education’s Office of School Finance presumed all 3,088 professional personnel would receive the bill’s \$2,500 annual bonus.

Only 70 counselors and 20 nurses would be eligible for the bonus, according to Webb, noting that the measure included a 100-member cap on persons who’d be able to get the bonus annually.

When House Education considered the bill, Del. Ray Canterbury, R-Greenbrier, clarified the state Department of Education’s “over-calculation,” with HEC member Sharon Spencer, D-Kanawha, requesting a new fiscal note that set the bill’s cost at \$1.9 million. When Webb included only school counselors in his proposal, the cost was estimated at \$400,000.

In terms of the legislation’s intent, Webb said the proposal isn’t a request for an across-the-board pay raise, but an incentive for exemplary performance.

“They have created a class within a class,” he said, noting that professional educators who obtain National Board of Professional Teaching Standards certification may receive the bonus.

“Encouraging the best in each professional field is necessary to enhance education in West Virginia,” Webb said. “The problem lies in the information that was given to the Legislature.

“Those wrong assumptions cost me a day at the Legislature,” he continued, noting when the fiscal information was presented to the HEC, two days remained to move the bill from House to Senate under legislative rules.

Webb said the bill has been approved by the HEC during the

last three legislative sessions with no fiscal note.

This year, due to change in committee, Chairman Tom Campbell, D-Greenbrier, has been cautious with bills in terms of financial implications, which Webb describes as a “good thing.”

For their part, WVDE officials said they calculate fiscal notes based on how bills are written — not any agency or organization’s “intent” which may not be explicit in how legislative proposals are drafted.

Once committee intent is clarified, usually through meeting deliberations or conversations with bills sponsors or the committee leadership, a different fiscal note may be required, according to WVDE personnel.

WVDE officials also suggest that to contact lobbying groups concerning fiscal implications may cross the line between providing sheer “numbers,” based on proposals as written, and getting involved in policy.

Some critics, however, contend by not contacting sponsors to clarify legislative intent, WVDE fiscal notes, in and of themselves, may doom legislation, including legislation the Department of Education may oppose.

When the Manchin transition team met, the notion of an independent fiscal note agency was floated, although not approved as a transition-team recommendation. Critics said that while the notion had merit, it would be costly and that agencies would oppose the move because a separate entity would dilute agencies’ ability to estimate fiscal implications of legislation.

Incidentally, the House Finance Committee didn’t consider the legislation, meaning it died in that committee, but some HFC members have ensured Webb that the proposal will be taken up in a special session when school employee salaries and benefits will be considered.

That special session will be late this summer, according to most sources.

— *Keeling is owner of Keeling Strategic Communications, based in Cross Lanes.*

# NET ENROLLMENT BILL

*Continued from page 1*

The science grant money is “just sitting there,” according to Plymale. That provision isn’t included in the original House-passed measure.

Refer to the March 4 issue of *The Legislature*, which includes information about the funds counties would receive under the bill.

## RESAs would get \$3 million to \$4 million

In its Tuesday meeting, Senate Education approved a bill that would allow the Legislature to determine the amount of funding Regional Education Service Agencies receive.

According to Plymale, RESAs would receive \$3 million to \$4 million. Senate Education’s plan reads:

“For the fiscal year beginning on (July 1, 2005), and for each fiscal year thereafter, the funding allocation for RESAs shall be an amount determined by the Legislature. The funding shall be distributed to the regional educational service agencies in accordance with rules adopted by the West Virginia Board of Education.”

The bill creates a new section of Code - §18-9A-27.

Current funding is based on .63 percent of the School Aid Formula step relating to professional educators. Plymale said RESA funding per se could be limited only by removing that step in the formula.

Under Senate Education’s proposal, RESA funding would be calculated using that step, but the Legislature would make the final determination regarding legislative dollars RESAs receive during any given fiscal year.

The House RESA bill, included in **HB3108**, also suggests RESAs have a greater role in staff development and student achievement programs.

## Challenge Academy not ‘taking money’

In other action, Senate Education adopted the following bills:

**HB3018** would designate the Mountaineer Challenge Academy as a special alternative education program.

A substantive Senate Education amendment would allow a student to be considered fully enrolled for purposes of calculating attendance and graduation rates to the extent that the provision doesn’t conflict with federal law provisions relating to attendance and graduation.

A second amendment requires the West Virginia Board of Education to report to the Legislative Oversight Commission on Education Accountability its efforts to cooperate with and support the Challenge Academy.

Under terms of the bill, the Academy is considered a special alternative school. When students attend the MCA they are still included in a county board’s student count.

According to information provided to the committee, MCA officials aren’t interested in “taking monies” from county boards because the academy receives funding from the federal government.

Rather, by counting students as enrolled in public schools while they attend the MCA, academy officials say county boards have “incentive” to refer students to the program.

In extraordinary cases, students may receive GED degrees while participating in academy programs, although the MCA goal, according to Adjutant General Alan Tackett is to re-integrate students in the formal high school setting.

The MCA program is designed for students who, because of discipline and other factors, may not cope in traditional school set-

tings.

**HB2350** amends a state law enacted last year regarding out-of-state teachers who would be considered “certified” to teach in West Virginia. Some states require a provisional certification process prior to one being granted full certification.

The measure would allow such teachers to acquire certification in West Virginia, providing they meet other relevant requirements, including background checks.

## Reimbursing teachers for certification

**HB2603** revises an existing Code section relating to teachers’ reimbursement for expenses for certification renewal and for teachers who teach in areas of critical need and shortage. The bill defines “area of critical need and shortage” as “areas of certification or endorsement for which an insufficient number of teachers are available.”

Under terms of the bill, money would be appropriated for teachers with a West Virginia teaching certificate or a first-class permit, and who are additional endorsement in an area of critical need and shortage. Funds could be used for certification renewal.

Funds would be divided between reimbursement for courses completed toward certification renewal and reimbursement for courses completed toward an additional endorsement in an area of critical need and shortage.

A proviso states that total reimbursements can’t exceed 75 percent of the total funds appropriated. If the “application” of the 75 percent limit would cause any of the appropriated funds to remain unexpended, the percentage limit doesn’t apply.

Additionally, reimbursement for both courses completed toward certification renewal and courses completed toward an additional endorsement in an area of critical need and shortage is “limited to reimbursement for six semester hours per applicant per application period.”

Teachers would be limited to reimbursements not to exceed 15 semester hours of courses during the “lifetime of the teacher.”

## Personal finance would be taught

**HB2837**, as finally amended by the committee, would require the West Virginia Board of Education to develop a program relating to personal finance instruction whose use in the public schools is apparently optional, based on a committee amendment.

As in an earlier meeting, Senate Education members debated the proposal for several minutes. According to Regina Scotchie, West Virginia Department of Education Social Studies Coordinator, there are at least two other such programs in the public schools.

However, she said only about 11,000 of the state’s middle school students and 6,000 of the state’s high school students receive such instruction.

She also said a variety of outside materials are available for curricular use, including documents supplied by the state treasurer and state auditor.

Scotchie said the instruction could be “embedded” within civics instruction, although she said teachers may need training prior to teaching the courses.

When considering the bill Tuesday, West Virginia Education Association President Tom Lange spoke against the measure.

“We don’t want to add to the teacher’s plate,” Lange said. “We don’t want to mandate a second course.”

*See NET ENROLLMENT BILL on page 5*

# NET ENROLLMENT BILL

*continued from page 4*

Also at that meeting, Sen. Michael Oliverio, D-Monongalia, suggested that the proposal, if adopted by the Legislature, include a bill designation for former WVEA president Kevin Boggs who died late last year.

After his WVEA service, Boggs worked in the state treasurer's office.

Based on House Education discussion, no separate instructional course would be required, with the personal finance instruction integrated into regular curricular classes such as mathematics and "family living" classes.

The Boggs designation apparently isn't included in the Senate Education bill. Treasurer John Perdue supports the measure.

## Tuition for injured Guard members

Under terms of **HB2866**, West Virginia National Guard members discharged due to wounds or injuries received in the line of duty would continue to receive college tuition and fee payments as though they were still a member of the Guard.

Payments are contingent upon legislative appropriation in an amount determined by the state adjutant general who set the bill's cost at around \$39,000.

As defined by the bill, "line of duty" refers to wounds or inju-

ries one receives as an active member of the Guard, not necessarily in combat.

Adjutant General Alan Tackett said the bill would apply in situations such as when a Guard member is hurt or incapacitated in an accident that forces him or her to leave Guard service.

Senate Education did not amend the bill. It has a second reference to the Senate Finance Committee.

**HB2777** is a companion to **SB504**, which the committee had laid over from its Tuesday meeting. This bill would make technical changes in statutes dealing with high-tech research zones, parks and technology centers.

According to Plymale, this law was enacted several years ago and needed updated to comply with other legislation since adopted.

The bill has several provisions, including one that would specify how collaborative ventures can be established for partnerships between higher education institutions and businesses.

One incentive relates to taxes, according to information Hager provided to the committee. The original bill is the same as **SB504**, which had been on earlier committee agendas.

**House Concurrent Resolution 21** requests that the West Virginia Department of Education create a position to coordinate, oversee and advocate for public school libraries.

There was some committee discussion relating to whether the resolution required creation of such a position or if the WVDE could assign an existing employee or employees this area of work.

## Looking Back

In the déjà vu corner, Regional Education Service Agencies were discussed as the 1995 legislative session was nearing its close, with the Legislature adopting the current School Aid Formula-based funding method, e.g., .63 percent of SAF Step I, the funding step relating to professional educators. Lawmakers, however, required that 12.5 percent be used for computer repair, according to the March 3, 1995 issue of *The Legislature*.

In terms of accountability, RESAs were required to submit an annual audit to the Legislative Commission on Education Accountability, beginning in September 1995.

The 1994 cooks-per-meal ratio, which still is advisory, was the subject of Senate Education Committee discussion with Sen. Michael Oliverio, D-Monongalia, moving to make the guidelines mandatory, according to the publication.

*The Legislature* reported that the motion failed in Senate Education on a voice vote. Prior to the vote, Oliverio said, "Many cooks in my area say they are extremely overworked..."

Sen. Donna Boley, R-Pleasants, inquired of the bill's cost if mandated, which was estimated at \$14 million, according to *The Legislature*.

The School Building Authority of West Virginia also was in the news, with the Legislature adopting legislation placing the SBA under the state's "sunset" review, meaning the agency faces a periodic audit as to its viability and effectiveness. (The last such audit, completed in 2004, was critical of the agency and the West Virginia Department of Education for its SBA grant process.)

Additionally, the pest management bill referred to in last week's issue of *The Legislature* was adopted after a well-attended public

hearing. Among its provisions: Use of the "least-hazardous method available to control pests in schools buildings or on school grounds," a proposal which some school administrators at the time said wasn't workable.

Finally, legislation that would allow initiative, referendum and recall — referred to as "IRR" legislation — died in a House committee on a tied vote. This was the last time such legislation was considered. Its death and the death of legislation that would have taken funds dedicated to shoring up teacher numbers in the SAF portended what some liberal legislators, including then Del. Randolph McGraw, D-Raleigh, saw as a shift to a more "conservative" Legislature.

Then House Speaker Chuck Chambers, D-Cabell, who had supported 'IRR' legislation (as had most 'liberal' House members), began to say its passage could lead to governmental uncertainty, signaling a shift from its support by those legislators considered more progressive. Currently, only conservative legislators such as Del. John Overington, R-Berkeley, support the measure.)

By the way, McGraw, as mentioned above, made an emphatic plea that SAF net enrollment caps, if rolled back, should be used to fund more teacher positions, rather than leaving that decision to county officials. The latter sentiment prevailed, however, with several House Education members saying the matter was one of local "flexibility."

McGraw argued the dollars would be used to hire additional school administrators, a sentiment expressed by the West Virginia Education Association.

— *The Legislature*, March 3, 1995.

# Demands of highly qualified teacher requirement mean new methods needed

By Serena Starcher

As county boards of education and county superintendents are well aware, teaching positions are often posted without a fully certified teacher applying.

When a position (i.e., secondary mathematics teacher) is posted and no fully certified teacher applies, a superintendent can declare the area of posting (i.e., mathematics) an area of critical shortage.

To meet the ever-increasing demands of the federal No Child Left Behind Act in regard to highly qualified teachers and in an effort to provide practical alternative routes to the traditional four-year teacher preparation program, **House Bill 2528** includes revisions to current statute §18A-3-1a, which provides a structure to allow individuals with a non-education degree to become fully certified teachers without completing a traditional preparation program.

## 'Area of Critical Shortage'

HB2528 requires a superintendent to declare an area of critical shortage before someone can be hired and placed on an alternative teaching certificate.

Initial requirements for the alternative certificate include:

- A bachelor's degree from a regionally accredited college and related to the area for which the individual is being hired;
- Passing the West Virginia Board of Education (WVBE)-required licensure exams in pre-professional skills as well as the content area in which the teacher will be instructing;
- Satisfying an FBI and state criminal background check;
- Meeting the citizenship, character and age requirements for issuance of a teaching certificate as specified in §18A-3-2a; and,
- Enrolling in a WVBE-approved alternative certification program.

## 18 semester hours' instruction

The WVBE-approved alternative certification program consists of a minimum of 18 semester hours of instruction in areas related to the classroom and instruction such as classroom management and special education.

Additionally, the program consists of three phases of training, observation and evaluation during which the alternatively trained teacher will be mentored by a professional support team comprising the school principal, an experienced educator, a curriculum supervisor and a college or university supervisor.

While employed and possessing an alternative certificate, a teacher can be considered highly qualified for up to three years under provisions specified in the federal No Child Left Behind (NCLB) act. As a result, the alternative certificate will be issued for a period not to exceed three years with renewal requirements each year.

Renewal requirements include completion of a minimum of six semester hours of coursework per year, successful evaluations by the school principal, and recommendation by the district superintendent.

## Special education teachers

While current law provides a framework for individuals with the minimum requirement of a bachelor's degree related to a specific

area of instruction to complete an alternative preparation program and obtain a teaching license, no language provides for alternative preparation and certification of special education teachers.

Furthermore, with the reauthorization of the Individuals with Disabilities Education Act (IDEA) in December 2004, all special education teachers must meet the definition of highly qualified as identified in the reauthorized IDEA by the beginning of the 2005-2006 school year.

Therefore, to meet the increasing demands placed upon the state and its school districts for highly qualified special education teachers, and in response to a growing shortage of special education teachers, additional proposed revisions to current statute include providing alternative routes for educators to obtain certification in special education, content or both.

These alternative routes will include college and university coursework as well as professional development, to the extent possible.

## Position posting

Other revisions to current statute included in HB2528 include specifications on the posting of positions and hiring of alternatively certified individuals. As with any posted position, the most qualified individual must be hired to fill the position.

If a fully certified applicant does not apply and an already licensed educator applies, that educator would hold the position for three years while completing the alternative preparation program, subject to completion of annual renewal requirements.

However, if an individual not already licensed as an educator in West Virginia filled the posted position using an alternative certificate, the position must be posted at the end of each school year so that a fully certified individual(s) would have the opportunity to apply for such position.

If a fully certified educator does not apply for the position, the individual holding the alternative certificate may be rehired, subject to renewal requirements.

In summary, the proposed changes and legislation will provide county boards greater flexibility in filling positions of shortage while meeting the requirements of highly qualified teacher under NCLB.

Currently, boards are often forced to fill positions of shortage with individuals who hold a credential such as a permit, out-of-field authorization, or long-term substitute permit, none of which satisfy the requirements for highly qualified teacher.

Starcher is a coordinator in the West Virginia Department of Education's Office of Professional Preparation, serving as liaison to the state's 19 colleges with teacher-preparation programs. Starcher has worked closely with the WVDE, Regional Education Service Agencies, teacher organizations, etc., to revise current code language for alternative routes to certification.

Based on WVBE policy, the goal is to create an option for certification that will help counties and maintain the standards for teacher preparation in West Virginia.

—Starcher is serving as liaison to the state's 19 colleges with teacher-preparation program and is pursuing a doctorate in Educational Leadership Studies from Marshall University.

## Stewart will retire June 30

State Superintendent of Schools David Stewart on March 29 announced he will retire by June 30, according to a West Virginia Department of Education news release. The resignation announcement also is posted on the WVDE Web site, <http://wvde.state.wv.us/news/943/>

Stewart was going to retire last year but was persuaded to stay by then House Education Committee Chairman Jerry Mezzatesta, D-Hampshire, who had sought to raise Stewart's salary by about \$60,000 to \$200,000. That salary would have been the fifth-highest in the nation, according to press reports.

Following a Mezzatesta-arranged appearance before the House of Delegates, Stewart received a standing ovation and was encouraged to continue in his post, which he said he would do until 2006.

Stewart's announcement this week surprised few, as dates of his retirement have been rumored, ranging from shortly after this legislative session until next year. Many of Stewart's senior staff members openly referred to him as a "short-termer."

While a bill has been introduced to remove what some West Virginia Board of Education members see as an antiquated section of statute requiring the state superintendent to have a degree in "educational administration," its chances of passage are slim, if past consideration of the measure is an indicator.

The main opposition comes from teacher unions, which are heavily populated with practicing or former educators.

In terms of a search committee, the West Virginia Board of Education is to settle on these matters – or begin to settle on these matters – at its April 15 meeting in Charleston.

## Michael's 'pork-barrel' funding spotlighted

It appears that *Charleston Gazette* reporters Eric Eyre and Scott Finn have begun to delve into the purported monetary dealings of House Finance Chairman Harold Michael, D-Hardy. The 17-year legislator, as well as House Speaker Bob Kiss, D-Raleigh, have defended Michael's reported funneling of millions of dollars to constituents in Hardy and Pendleton counties, including school systems in both counties.

A recent *Gazette* article reported that Michael directed money, including dollars from the governor's contingency fund, to the two counties – sometimes in excess of the amounts asked by the school systems.

Additionally, State Superintendent David Stewart, Ed.D., told the *Charleston Gazette* he was unaware of some of the "purposes" of funds held in West Virginia Department of Education accounts.

According to the *Gazette*, these dollars can only be spent as approved by Michael. Several West Virginia Board of Education members have been "appalled" – in the words of one member – about the amount that "goes to Michael," although WVBE members were told by West Virginia Department of Education officials the agency apparently operates as a conduit for the funds.

The *Charleston Daily Mail* sharply criticized Michael, while saying the blame for Michael's "pork barrel" approach is the fault of House Speaker Bob Kiss' leadership. Kiss, however, defended Michael, saying it was wrong to criticize him for bringing money to his district when U.S. Senator Robert C. Byrd is lauded for the same.

In another development, some senators are openly critical of a bill that would establish a 1,400-pupil School Aid Formula funding

floor, noting that Pendleton County and Pocahontas Counties already receive funds outside the SAF. While that measure is likely to pass, it has less-visible support in the Senate, partly due to the "extra" money these two boards receive.

## Table games on track for approval

Will gaming be approved this session? It's likely, but it will take more Republican support in the House of Delegates, according to various news accounts. Supporters say gaming legislation is necessary due to other states, notably Pennsylvania, moving in to offer casino-type gambling.

While the measure passed the Senate on a 19-14 vote, including several Democrats who voted against the bill, House passage is more problematic, partly because of a larger contingent of Republicans and because several more conservative Democrat delegates don't support the bill.

Another House issue—defeated in the Senate—concerns whether the vote to approve table games should occur only in counties where racetracks are located or statewide.

Most lobbyists say it may be harder to shake that concept in the House, given the number of Republicans. And, they don't know the degree to which Republican defection will be hard or soft when it comes to an actual vote on the measure.

Another issue is the amount of state "takes" from wagers, with the Senate paring down the amount by 5 percent so that money could be used to address rising regional jail expenses.

The Senate rejected the ideal upon a motion made by Sen. Steve Harrison, D-Kanawha.

## Manchin agenda will mostly be realized

'Avoid' games with my agenda. That appears to be Gov. Joe Manchin III's mantra as he urges legislators, in the waning days of the session, to get on with passing his proposed legislation.

Manchin was quoted in the Charleston press as saying that if legislators have better notions about his proposals they should be considered.

One major bill has been adopted by the Senate — tort reform — but, as of this writing, it faces considerable opposition in the House. In fact, there are news reports that the House Government Organization Committee is holding the governor's reorganization legislation hostage until some kind of "deal" is made on tort reform.

The governor's busing bill hit the skids on the House side — literally reduced to a study — but may be revived in the Senate, according to Manchin officials who spoke with *The Legislature*.

A bill to establish healthy lifestyles passed the House, but faces Senate review.

Manchin visited with legislators and lobbyists on Tuesday. Most observers are saying that, with a few exceptions, the governor's agenda will be realized.

According to Manchin officials, passage of pension reform measures is critical. This legislation is needed to authorize the sale of \$5.5 billion of pension bonds in a June 25 referendum.



*Bills suggest RESAs must 'do more with less'*

## Legislature infringing on daily operations

By Martha Dean, Ed.D.

As the session winds down and the last week is upon it, there has been much activity in both houses. Both the Senate and House have met twice each day this week and have passed out many bills.

Treasurers had expressed worry about the provision for Generally Accepted Accounting Principles in **House Bill 3225**. But, on second reading on Tuesday, Del. Thomas Campbell, D-Greenbrier, presented an amendment that removed that provision from the bill. The amendment passed, the bill moved on to third reading on Wednesday, and passed out of the House. It is now on to the Senate for consideration as referred to both Education and Finance.

The remaining provisions change the publication requirement for financial statements from two newspapers to only one, as well as increase from \$250 to \$500 the amount you have to remit to a vendor before it must be published. These are positive changes in my view.

**Senate Bill 750** changes the way Regional Education Service Agencies (RESAs) are funded. It emerged from Senate Education on Tuesday and has passed the Senate. By making this change, every year could bring forward for discussion how much to fund the RESAs. I think this will detract from them accomplishing their mission.

Also, the amount of this year's funding is certainly up in the air. The governor's budget had zero in it for RESAs, so it is up to the Legislature to assign a number to that line item. On the other hand, many bills that passed one house or the other contain new and added responsibilities for the RESAs. The mentality is one of "do more with less" and fails to recognize that services do come with a price tag.

On Wednesday, both **SB604** and **HB2801** were on second reading. Both of these bills have language that would cause the increased enrollment funds to flow during the current year rather than waiting until the following year. Both bills also have the language to provide relief to counties with 1,400 or fewer net enrollment that cannot meet mandates because of a lack of resources, subject to approval of the state superintendent of schools.

Either of these bills does what West Virginia Association of School Administrator (WVASA) has proposed by providing reliable funds for increasing enrollment and a way to help small counties. However, **HB2801** was removed from the agenda and **SB604** passed

out of the House but has not yet been reported to the Senate for consideration.

### Bill 'further erodes' authority of boards

A bill that may seem innocuous to some, **HB2012** has passed the House and been sent to the Senate. It provides that "From all Medicaid reimbursements received pursuant to this section for services provided after July 1, seven percent of the amount of the reimbursements received shall be reserved and utilized by county

boards for the purposes of providing a salary supplement for providers of Medicaid eligible services in the public schools pursuant to §18-a-4.4."

The bill also later describes that the funds be disbursed twice a year. This may seem like a small thing, but it further erodes the authority of boards and superintendents to decide how to spend the funds they have. It seems to me that, more and more, the Legislature is infringing on the day-to-day operations of the schools,

with good intentions in many cases, but nevertheless not letting those who are close to the situation do their jobs in decision-making.

**HB2365** makes it clear that no board member, unless authorized by the full board, can obligate the board in any way as he or she takes individual action. During the discussion on the floor, someone asked if that would deter board members from visiting the schools.

I thought this was a very good question, and it was answered very clearly that a board member could surely visit the schools, but not take any action while there that required a vote of the entire board.

Further, the law adds a provision similar to the rules of the Legislature that "when a question is put to a vote of the board, any member having a direct personal or pecuniary interest therein shall announce this fact and request to be excused from voting. The member may be excused from voting if, in the opinion of the presiding chair, the disqualifying interest affects the member directly and not as one of a class."

So, the duties of the president of the board would be expanded to making rulings on whether a member may be excused from voting. It also clarifies that board members are expected to vote on all issues that don't meet the qualifications for excuse.

*"... more and more the Legislature is infringing on the day-to-day operations of the schools, with good intentions in many cases, but nevertheless not letting those who are close to the situation do their jobs in decision-making."*

## ADMINISTRATIVE PERSPECTIVE

*Continued from page 8*

### Policy on substitute bus drivers

**HB3359** clarifies how temporary absences of school bus operators are to be filled. I think it was last year that they passed a law that said that all bus operators were to be considered working at the same location.

This meant, according to some interpretations, that all bus operators would have to be called to see if they wanted to substitute in an absent driver's place before a substitute could be called.

This bill makes it clear that only one bus operator must be offered the job before the job could be filled by a substitute. I did talk to West Virginia School Service Personnel Association Executive Director Bob Brown about this bill and he explained that the bus operators requested this bill. He and I agreed, however, that not many bus operators want to leave their regular run for even one day to substitute elsewhere since they wouldn't know either the kids or the route.

The bill further clarifies, however, that school bus operators shall be offered the opportunity to fill the extracurricular assignments of absent drivers before subs are called.

Due to the lengthy floor sessions and many committee meetings, the committee meetings for both House and Senate education committees were delayed on Thursday afternoon. Senate Education met at 4 p.m. instead of 2 p.m.

### No agreement on fizzy drinks

Because I was already there and because the Committee on Health and Human Resources was taking up **HB2816**, the Governor's Healthy Start Bill, I stayed to listen to the debate and the outcome from this committee. This bill has three references on the Senate. It will now go to Senate Education and then Senate Finance.

The most interesting thing about the debate is the amount of time they spent on the issue surrounding how to permit soft drinks and healthy beverages in the schools. Personnel from the West Virginia Department of Education (WVDE) were on hand to explain that the bill's provisions were less restrictive than current state board policy.

However, it was obvious that there were also employees of the soft drink industry present who wish to sell their products in the Middle Schools. Three amendments were rejected.

One would require comparable prices for healthy drinks and soft drinks. The second would have restricted the sale of soft drinks in high schools to between 3 p.m. and midnight. The third would have deleted the allowance of drinks in middle schools that have 10 or fewer grams of sugar. Another amendment passed that would require equal access to healthy beverages and soft drinks in the schools.

### Bills would teach finance, add employees

Senate Education did meet around 4 p.m. and passed out five bills. Included was **HB2777** that makes technical changes concerning high-tech research zones and tax incentives relating thereto. Also, **HB2837**, which some say is Treasurer John Perdue's bill prescribing personal finance instruction in secondary schools by the State Board of Education. This bill was amended to require the State Board to develop a program of instruction in personal finance that "may" be integrated into existing courses at the local level.

**HB2578** increases the ratios of both professional and service

personnel to students in net enrollment. The increase starts very slowly, there being only an additional 24.52 professional positions added the first year, but continues for a total of 12 years to effectively raise the net enrollment caps.

Also passed were **HB2866**, which allows for continuation of tuition and fee payments to discharged members of the military; and **HB2603**, which is related to the reimbursement of tuition and fees to teachers.

House Education was scheduled to meet at 5 p.m. The meeting finally got under way about 5:45 p.m. as they were printing copies of the amendments proposed to **SB603**, the higher education bill that includes provisions related to the Center for Professional Development.

The Committee as a whole proposed several amendments that unanimously passed. These amendments addressed a few issues related to CPD.

It now includes an intent to ensure that the expertise of colleges be considered in professional development provided by the Center; a requirement that they look in-state before they hire someone from out-of-state; the director position has been changed back to CEO — what it began as in the Senate; and there is a prohibition that requires attendance at sessions outside the employment term.

Interestingly, Del. Sharon Spencer, D-Kanawha, offered an amendment that would limit the board from raising the current chancellor's salary, although they control the salaries. The amendment passed after Spencer said she thought the Chancellor's duties were being reduced through other requirements in the bill.

*— Dean is executive director of the West Virginia Association of School Administrators.*

## Wisdom

*Finite to fail, but infinite to  
venture.*

*For the one ship that struts  
the shore*

*Many's the gallant,  
overwhelmed creature*

*Nodding in navies  
nevermore.*

*— Emily Dickinson (No. XXXII), Collected Poems: Emily  
Dickinson (Courage Books, 1991).*

# Do uniforms make our schools better?

*Editor's Note:* In the waning days of the 2004 Regular Session, Senate Majority Leader H. Truman Chafin, D-Mingo, was successful in amending an education bill to require public school students to wear uniforms.

Although the uniforms provision ultimately was removed from that bill, the matter was reviewed in 2004 interim meetings. Based on that review, the House Education Committee approved a bill, patterned after the Kanawha County Board of Education's approach to pupil uniforms. The bill outlined a fairly extensive procedure county boards would use in requiring uniforms for students. That bill still has not been reported from the House Judiciary Committee, where its leadership reportedly is opposed to the measure.

The Senate, meanwhile, has approved a bill requiring county boards of education to hold public hearings on the feasibility of uniforms. House Education may amend the provisions of its bill, **House Bill 2977**, into the Senate measure, **Senate Bill 290**.

Thus, the legislation may not be dead.

The following article is from the February 2005 edition of the *American Teacher*, which is published by the American Federation of Teachers.

## *Anecdotes crumble under a mountain of evidence*

Most of us are aware of the anecdotes that presume school uniforms' effectiveness on a variety of educational outcomes.

However, evidence from eight years of empirical research into public school uniforms is clear: Uniform policies are not effective. Over these years of inquiry, the dominant anecdotes of the school uniform debate have indeed been put to the test. The results, although surprising to many, simply cannot be ignored. Uniforms do not make our schools better.

Estimates from my recent book, *The School Uniform Movement and What It Tells Us About American Education: A Symbolic Crusade*, show that elementary schools, in particular, have implemented uniforms at an alarming rate—from less than 1 percent in the late 1980s to 15.5 percent by 2000 (even more recent data show close to 23 percent in 2002). The rates for public middle schools and high schools are about half those for elementary schools. Schools with lower-achieving students, more minority students, poorer students and lower parental involvement were the most likely to adopt uniforms. If uniforms were effective in helping these students, such patterns might make sense; however, because uniform policies are not effective, one has to wonder what it is behind the trend.

School uniform policies do not affect academic achievement (in fact, findings point to small negative effects), attendance, behavior/safety, students' self perceptions, or approaches to learning. Uniform policies don't even affect aspects of schooling that are effective supports, such as academic preparedness, peer pro-school attitudes, parental involvement and safety.

Results actually point to several detrimental effects of the movement to require public school students to wear uniforms. For example, uniforms are no longer serving their traditional role as a marker of elite status. Instead, they are being used in racist and

classist ways, to mark lower status. On average, the face of the uniformed student in U.S. public schools is one of poverty and minority status; these students attend schools with high enrollments, dismal funding and lack of resources. Also, uniform policies provide a unique glimpse into the growing climate of corporate influence in our public schools. Since Lands' End's uniform division opened in 1997, other clothiers have followed—resulting in an almost \$2 billion industry (5 percent of the children's apparel market) with a captive and largely disadvantaged constituency.

These are not the only detrimental effects of school-uniform requirements, but they illustrate that good intentions behind these "reforms" have little to do with constructive results. Ultimately, uniform policies, rooted in fear, bespeak the desire to control, discipline, and structure an ever-complex process of schooling children, which, whether we accept it or not, is not isolated in a social vacuum. *David L. Brunnsma, an assistant professor of sociology and black studies at the University of Missouri-Columbia, is the author of The School Uniform Movement and What It Tells Us About American Education: A Symbolic Crusade.*

## *I've seen them boost school climate*

Studies questioning the value of school uniforms are going to be a pretty tough sell in buildings like Central High School, located in the center of the depressed urban core of Kansas City, Mo.

Until a few years ago, Central made the news quite frequently, notorious for gang violence in the neighborhoods around the school and for being named one of Missouri's first academically deficient schools. If you go to Central today, you will find a completely different environment. The gangs and violence are still in the neighborhoods, but you see little evidence inside the school of the grim reality that exists outside the school—and academic progress is being made. One reason for much of the change is due to a uniform dress-code policy adopted by the school, along with a staff and administration determined to support and enforce the policy.

Before the code was instituted, students would trigger each other into confrontations with the gang-affiliated colored clothing they wore. Many females would wear sexually degrading clothing, and the males' behavior fed the degradation. Many families struggled to make sure their children had the latest fashion for school. Other students would acquire the latest fashions by stealing them from their owners at bus stops or on school grounds, causing more tension and resentment. Students roamed the halls in packs looking for trouble. Fights were daily occurrences, and instruction was difficult due to the chaos that permeated the school.

Today the halls are empty and quiet during instructional time.

The graffiti that once lined the corridors of the school is gone. Replacing the graffiti is student work, hanging in the classrooms and hallways. Walk into a classroom and you will find students engaged in learning activities. During passing periods, students are civil as they move from one class to another. And when the bell rings, few stragglers are left patrolling the hallways. In short, there is a functioning school where once there was just a school building.

See **SCHOOL UNIFORMS** on page 13

# Bill Abstract

*Editor's Note:* The following is a listing of education and selected education-related bills, with action current through Thursday, March 31, 2005, for most bills. For information relating to any of these measures, contact West Virginia School Boards Association Executive Director Howard M. O'Cull, Ed.D., or visit the West Virginia Legislature's Web site at [www.legis.state.wv.us](http://www.legis.state.wv.us).

## Senate

- Senate Bill 12.** Makes English official language of state. Passed Senate 3/29/05. Referred to House Judiciary 3/29/05.
- SB94.** Provides county boards flexibility in the statutory order of required activities to occur on school calendar Instructional Support and Enhancement (ISE) days. Approved by Senate Education Committee (Senate Education) Feb. 22. Passed Senate 2/28/05. Referred to House Education Committee (House Education), then House Finance Committee (House Finance).
- SB126.** Relates to educational benefits for children of deceased military personnel (killed in action). Senate Education approved 3/16/05. Passed Senate 3/25/05. Referred to House Veterans Affairs and Homeland Security Committee (House Veterans Affairs Committee) then House Finance 3/28/05.
- SB153.** Revises state Ethics Act legislation enacted during 2005 Special Session in part due to revising language relating to a "gag order" against those filing Ethics Commission complaints that was included in the January legislation; other provisions. Passed Senate 3/21/05 – House concurred with Senate amendment and passed 3/22/05.
- SB212.** Provides higher education employees the annual experience increment that is paid to state employees. Approved by Senate Education Committee (Senate Education) 2/22/05. Referred to Senate Finance Committee (Senate Finance) 2/23/05.
- SB248.** Voids the requirement that education technology expenditures be made in accordance with the West Virginia Education Technology Strategic Plan (ETSP). In that Strategic Plan members weren't appointed by former Gov. Bob Wise, the legislation allows various entities, including the West Virginia Department of Education, to expend technology moneys, including dollars for the Basic Skills and SUCCESS programs. Approved by Senate Education 2/22/05. Passed Senate 2/28/05. Referred to House Education, then House Finance.
- SB261.** Provides for special election proposing constitutional amendment designated as the "Pension Bond Amendment." Passed Senate 2/24/05. Passed House 2/24/05. Governor signed 3/8/05; Legislative Action Completed.
- SB264.** Relates to Teachers Defined Contribution Retirement System. Passed Senate 3/17/05. Referred to House Pensions and Retirement then Finance 3/18/05.
- SB282.** Continues School Building Authority of West Virginia (state Sunset legislation). Passed Senate 3/1/05. Referred to House Government Organization Committee (House Government Organization).
- SB290.** Requires each county board of education hold public hearing on students wearing uniforms. Senate Education approved 3/22/05. Passed Senate 3/25/05. Referred to House Education, then House Judiciary Committee (House Judiciary) 3/28/05.
- SB347.** Authorizes approval of rules of the Higher Education Policy Commission and Council for Community and Technical College

Education. Senate Education adopted 3/3/05. Senate Adopted 3/9/05. Referred House Education 3/10/05.

- SB401.** Relates to governing boards of the newly-established New River Community and Technical College and the Community and Technical College of Shepherd University. Senate Education approved 3/3/05. Senate Adopted 3/9/05. Referred to House Education. House Education approved 3/23/05. Third Reading House Special Calendar 4/01/05.
- SB419.** Provides governmental entities relief from certain policies, rules and regulations. Passed Senate 3/29/05. Referred to House Finance 3/29/05.
- SB504.** Relates to high-tech research zones, parks and technology centers. Senate Education deferred action 3/29/05. Provisions included in House Bill 2777. Senate Education approved 3/31/05.
- SB521.** Requires study on county board flood and general property insurance. Senate Education approved 3/22/05. Senate Finance approved 3/24/05. Passed Senate 3/28/05. Referred to House Education, then House Finance 3/28/05.
- SB589.** Relates to county boards of education sharing services of central office administrative personnel. Passed Senate 3/29/05. Referred to House Education, then House Finance 3/29/05.
- SB603.** Provides greater flexibility to Marshall University and West Virginia University. Senate Education approved 3/22/05. Passed Senate 3/25/05. Referred to House Education then Finance 3/28/05. House Education approved 3/31/05.
- SB604.** Establishes method for projecting increase in net enrollment for each school district. Senate Education approved 3/18/05. Passed Senate 3/22/05. Referred to House Education, then House Finance. Passed House 3/31/05.
- SB622.** Clarifies exemption for property used by certain not-for-profit, tax-exempt corporations. Passed Senate 3/29/05. Referred to House Finance 3/29/05.
- SB674.** Relates to textbook sales at public institutions of higher education (textbook bundling). Passed Senate 3/28/05. Referred to House Education 3/29/05.
- SB701.** Eliminates requirement statewide assessment occur at specific grade levels. Passed Senate 3/28/05. Referred to House Education 3/28/05.
- SB720.** Relates to alternative teacher education programs, fitness programs and other programs. Introduced 3/21/05. Senate deferred action 3/22/05.

## House

- House Bill 2012.** Requires county boards to reserve 7 percent of Medicaid reimbursements for services provided by county personnel as a salary supplement. Passed House 3/30/05. Referred to Senate Education, then Senate Finance 3/31/05.
- HB2286.** Relates to the sounding of "Taps" at veterans' honors funerals. Passed House 2/18/05. Passed Senate 2/21/05. Referred to governor 2/23/05. Governor signed 2/25/05; Legislative Action Completed.
- HB2328.** Provides precedential application to the Ethics Commission's written Opinions regarding open governmental meetings. Passed House 2/21/05. Referred to Senate Government Organization, then Senate Judiciary.

See **BILLABSTRACT** on page 12

## BILL ABSTRACT

*continued from page 11*

- HB2350.** Corrects provision in law relating to certification standards in other states and their application to teachers who may apply for certification in West Virginia. House Education approved 3/1/05. House approved 3/7/05. Senate Education approved 3/29/05. Senate First Reading 4/1/05.
- HB2365.** Prohibits county board members from acting individually or singularly unless authorized by law. House Education Committee adopted March 11. Referred to House Judiciary. House Judiciary approved March 24. Passed House 3/30/05. Referred to Senate Education 3/31/05.
- HB2465.** Provides salary supplements of \$2500 and expense reimbursements to professional personnel who meet certain professional national certification standards. House Education approved 3/24/05. Referred to House Finance.
- HB2466.** Removes some obsolete Code references from stature; other provisions. House Education Committee approved 3/1/05. House approved 3/7/03. Referred to Senate Education, then Senate Finance. Senate Education adopted 3/11/04. Referred to Senate Finance 3/11/05.
- HB2525.** Eliminates requirement that West Virginia Department of Education conduct independent evaluation of effectiveness of character education programs, including Responsible Students Program (RSP). House Education adopted March 8. House adopted 3/11/05. Referred to Senate Education 3/14/05.
- HB2527.** Allows school service personnel competency tests to be given at multi-county vocational centers at option of employee. House Education adopted March 8. House adopted 3/11/05. Referred to Senate Education. Senate Education approved 3/24/05. Referred to Senate Finance.
- HB2528.** Relates to alternative programs for the education of teachers. (These provisions also are included in SB720.) House Education approved 3/23/05. Passed House 3/29/05. Referred to Senate Education, then Senate Finance 3/30/05.
- HB2578.** Increases school aid formula net enrollment limits for professional and school service personnel. House Education approved 3/1/05. House Finance approved 3/23/05. Passed House 3/28/05. Referred to Senate Education, then Senate Finance. Senate Education approved 3/31/05.
- HB2603.** Relates to reimbursement of tuition, registration and other required fees for course work completed by teachers. Passed House 3/28/05. Referred to Senate Education, then Senate Finance. Senate Education approved 3/31/05.
- HB2783.** Authorizes the Director of the Division of Rehabilitation Services to allow youth or other civic groups to use Rehab facilities and to charge a fee. House Education approved 3/15/05. Passed House 3/21/05. Passed Senate 3/24/05. (This bill was amended extensively by the Senate.) Referred to governor 3/31/05.
- HB2795.** Relates to the consolidation of administrative, information, technological, financial and operating systems and functions of West Virginia University Institute of Technology with and into such systems and functions of West Virginia University. Passed House 3/30/05. Referred to Senate Education, then Senate Finance 3/31/05.
- HB2801.** Relates to removing the delay in school aid formula funding for increased student enrollment. House Education approved 3/23/05. Referred to House Finance. Second reading, Special Calendar 3/30/05; tabled.
- HB2837.** Prescribes a personal finance instruction in secondary schools. House Education approved 3/15/05. Passed House 3/21/05. Referred to Senate Education, then Senate Finance. Senate Education approved 3/31/05.
- HB2855.** Places a limit of 10 years on the amount of time that a teacher who returns to work after terminating employment may retain his or her accrued seniority. House Education referred to a subcommittee 3/24/05. Passed House 3/30/05. Referred to Senate Education, then House Finance 3/31/05.
- HB2866.** Provides for continuation of tuition and fee payments to members after discharge from military service due to wounds or injuries received in the line of duty. Passed House 3/28/05. Referred to Senate Education, then Senate Finance. Senate Education approved 3/31/05.
- HB2885.** Relates to tuberculosis testing, control, treatment and commitment. Passed House 3/23/05. Referred to Senate Health and Human Resources (Senate Health), then Senate Finance 3/24/05.
- HB2963.** Clarifies the allowance of excess levy elections at primary elections and to remove language which conflicts with article ten, section eleven of the West Virginia Constitution. Passed House 3/30/05. Referred to Senate Judiciary 3/31/05.
- HB2977.** Relates to authorizing school-level implementation of student uniform policies. House Education approved 3/17/05. Referred to House Judiciary.
- HB2984.** Discontinues the loan program participation of teachers and nonteachers who become members of the Teachers Retirement System on or after July 1, 2005. Passed House 3/30/05. Referred to Senate Finance 3/31/05.
- HB3012.** Exempts property acquired by lease purchase agreement by the state, a county, district, city, village, town or other political subdivision, state college or university, from property tax. Passed House 3/28/05. Referred to Senate Judiciary, then Senate Finance 3/29/05.
- HB3018.** Relates to designation of Mountaineer Challenge Academy as a special alternative education program. House Education approved 3/15/05. Passed House 3/21/05. Referred to Senate Education, then Senate Finance. Referred to Senate Finance 3/29/05.
- HB3019.** Relates to recognizing the Appalachian Education Initiative promoting the role of art education in public schools. Passed House 3/30/05. Referred to Senate Education, then Finance 3/31/05.
- HB3040.** Provides maximum time limits for one-way bus transportation for any new bus route created to transport students in the wake of the closure or consolidation of an existing school facility. Passed House 3/30/05. Referred to Senate Education, then Finance 3/31/05.
- HB3055.** Requires the state Secondary Schools Activities Commission to have at least two separate classes of competition at all end-of-year interscholastic athletic tournaments. House Education tabled 3/17/05.
- HB3098.** Expands the prohibitions and criminal penalties for sexual exploitation or sexual abuse of a child by a parent, or guardian or custodian to include offenses by persons who hold a position of trust in relation to a child. Passed House 3/30/05. Referred to Senate Judiciary 3/31/05.

*See BILL ABSTRACT on page 13*

## SCHOOL UNIFORMS

*continued from page 10*

The uniform dress-code policy did not fix all the problems. Some students still try to “sag,” or wear undershirts or shoelaces that reflect gang colors. Fights still occur occasionally, and sometimes you can still find a student in the hallway if you look hard enough.

Learning achievement, though improving, is still not where everyone wants it to be. But enforcing the uniform dress code has brought a sense of order, pride and discipline to a school that was filled with distractions. The dress code allows the staff the opportunity to address the problems of teaching and learning, and that’s the reason we all got into this business in the first place.

*AFT member Timothy Brennan, a 23-year classroom veteran, has worked in Kansas City, Mo., public schools with and without school uniform policies. He is currently an instructional coordinator working in four Kansas City district schools.*

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### **The Legislature**

WATCH FOR THE LATEST ON EDUCATION LEGISLATION.

## BILL ABSTRACT

*continued from page 12*

**HB3107.** Relates to Diabetes Care Plan Act in the public schools; has nurses ratio; other provisions. (Originated in House Education, creating allowance for student health services). Originated in House Education 3/18/05. Passed House 3/30/05. Referred to Senate Education, then Finance 3/31/05.

**HB3108.** Increases the focus of regional educational service agencies on school improvement. House Education approved 3/17/05. Passed House 3/30/05. Referred to Senate Education, then Senate Finance 3/31/05.

**HB3130.** Requires local boards of health to conduct inspections of all elementary and secondary schools. Passed House 3/30/05. Referred to Senate Education, then Senate Finance 3/31/05.

**HB3163.** Prohibits colleges from requiring students to purchase bundled textbook packages. House Education approved 3/24/05. Second reading, Consent Calendar 3/29/05. Removed from Consent Calendar by request 3/29/05. Third reading, Special Calendar 4/1/05.

**HB3213.** Creates the offenses of malicious assault, unlawful assault, battery and recidivism of battery, assault on a driver, conductor, captain or other person in charge of any vehicle used for public conveyance. Passed House 3/30/05. Referred to Senate Judiciary 3/31/05.

**HB3225.** Relates to the preparation and publication of year-end financial statements by county boards of education. Passed House 3/30/05. Referred to Senate Education, then Senate Finance 3/31/05.

**HB3359.** Relates to filling the positions and extra duty assignments of the absent school bus operators. Passed House 3/30/05. Referred to Senate Education 3/31/05.

— *Compiled by Shirley Davidson, West Virginia School Boards Association Administrative Assistant.*

## “Safe Schools” papers sought

The Hamilton Fish Institute is accepting submissions for papers for *Persistently Safe Schools 2005*, a program set for Sept. 11-14, 2005 at the Wyndham Hotel at Franklin Plaza in Philadelphia.

Presenters are encouraged to submit proposals that contain dynamic ideas to advance the art and science of school violence research. Presenters are also encouraged to consider submitting papers that will help conference participants acquire and refine technical and programmatic skills that can be applied in the real-world settings of our nation’s diverse schools. Preferred presentations will describe programmatic strategies and research that address multifaceted issues faced by practitioners, communities, and individuals. Interactive, skill-based presentations that demonstrate the use of effective tools are strongly encouraged.

According to an HFI news release, presenters will be able to present their research and network with renowned researchers in the field of school violence prevention. Content areas include: alternative education; bullying (student on student, student on teacher, teacher on student); gangs; gender related violence and issues; mental health and violence; model interventions (universal, primary, secondary, tertiary); risk and protective factors; school security; and school bus safety.

HFI’s Institute on School and Community Violence is a national resource for the research and development of school violence prevention strategies.

A not-for profit, non-partisan organization, the Institute operates as an interdisciplinary research partnership whose key staff have expertise in adolescent violence, criminology, law enforcement, substance abuse, juvenile justice, gangs, public health, education, behavior disorders, social skills development and prevention programs.

Administered by The George Washington University and housed in the Institute for Education Policy Studies, Graduate School of Education and Human Development, the Institute develops and tests violence prevention strategies.

HFI is named in memory of the late Hamilton Fish, a New York Congressman who participated in the group that framed the underlying ideas for and mission of the Institute.

Fish came from a family with a long tradition of public service, many of whom carried the name Hamilton Fish. In 1968, he was elected to the U.S. House of Representatives from New York, where he became the senior Republican on the House Judiciary Committee. Known for his constitutional law expertise and his support for civil rights legislation, he retired from Congress in 1995.

For more information, including deadlines, contact <http://www.hamfish.org>.

*The power of no ‘rough edges’:*

## Does Stewart legacy delimit successor?

By Howard M. O’Cull, Ed.D.

State Superintendent David Stewart this week announced that he will retire by the end of the fiscal year.

Of course, as Stewart’s departure date nears, we can expect the usual “legacy” stories and positive spin. In all likelihood, Stewart won’t be subjected to the joke at the 1985 roast for former state superintendent Roy Truby who was informed his “friends” could fit in a telephone booth. (The late Jim Gladwell, who served as Truby’s deputy, delivered that barb.)

And with any legacy tributes, there will be some hyperbole, mixed with heartfelt respect, and some criticism, which, again, is likely to be muted partly out of respect for Stewart and partly because he’s an affable guy.

There’ll also be some nostalgia. And, there’ll be some recounting of accomplishments, which is bound to include the state’s approach to the federal No Child Left Behind (NCLB) Act, which Stewart handled extremely well, projecting the right demeanor and countenance. The byword became that West Virginia will make something good out of this federal mandate, especially based on what we’ve already been doing as a state in terms of accountability.

As for accomplishments, Stewart – his finance background helped here – worked with legislators to end the interminable *Recht* school finance case. In fact, inputs became reality, not a concept — a policy feat that will have generational impact on the education system in West Virginia — as buffeted by the continued emphasis on accountability, testing and assessment.

### West Virginia achieves

Then, there is the curricular emphasis. When you talk to Stewart, he will tell you that most thought he’d concentrate on school finance issues. Actually, he used his position to structure and frame an emphasis on reading — and now mathematics as well, partly under the “West Virginia Achieves” umbrella.

Stewart also worked hard to ensure the pilot demonstration schools for minority students were well-funded and the program well-staffed. (That division of the West Virginia Department of Education could receive \$800,000 in funding, although the figure probably will be less.)

During Stewart’s watch, the state took over two school systems and re-intervened in another. While research and educational literature contend that the record on takeovers is spotty at best, Stewart, to his credit, used the inherent powers of his office to make these decisions.

And, while he may have been criticized for these actions, most anyone in *the* position likely would have done the same, although probably staffing them with different superintendents.

Stewart also will tell you that the West Virginia Department of Education (WVDE) has had a different “feel” and approach under his leadership, especially his having attracted several practitioners “from the field.”

### Anyone but Marockie

One can’t escape the “anybody but Marockie Syndrome,”

which worked to Stewart’s advantage, especially given his low-key exterior but a penchant, when necessary, to aggressively pursue his – or WVDE – policy objectives with a calm, almost tranquil demeanor.

This set of circumstance allows segue to other aspects of the Stewart record, especially the environment in which Stewart’s predecessor will find himself or herself: Stewart, by disposition, practice and profession, has no rough edges. He’s not an ideologue like his predecessor Henry R. Marockie, Ed.D.

He’s greatly more sophisticated than Tom McNeel, who was superintendent in the mid- to late-1980s, and he doesn’t have the “baggage” of being an outsider like Truby, who hailed from Idaho. Additionally, he hasn’t attracted enemies in high places like Dan Taylor, Ed.D., did as state superintendent in the late-1970s and early-1980s.

### No rough edges

When a public official has no rough edges, he attracts few enemies, and the ones he may attract are usually people infected with strong ideals about how things ought to be, especially based on moral compass or, most often, ideological drive.

While they may pride themselves on their passion, their ideals and methods most often are detrimental. In other words, their intensity — no matter how genuine or heartfelt — actually works against them. As Stewart once told me, the worst approach one can take is to be blinded by their rhetoric.

Now, think Hank Marockie. Within two years of his appointment, a popular slogan was “Yank Hank.” Yet, he had nine more years to go.

With no rough edges, one can make (or stumble onto) pacts with those who want something you have which, in this case, is money or using the West Virginia Department of Education as a holding pen for money until it can be released like magic to county clients.

Then there’s the access to information or influence over policy. Yet, this state of affairs, in its best or worst, isn’t a simple exchange of goods. It’s not tit-for-tat bartering.

While moralists, usually finding out about this set of circumstances from newspapers, are prone to apoplexy, it’s a certain way of the game between the triangle of agencies, bureaucrats and funders.

Admittedly, things can get out of hand as they did in the Mezzatesta mess. (More on that in a moment.)

To continue, having no rough edges means that one also can’t be pinned down (usually) on specifics which can change, especially in regard to funders, county superintendents and others.

While some naïve superintendents label this approach as “playing politics,” that misses the point. The reality of the approach is that one isn’t hemmed by strong opinions – or ideology, making policy fluid, ameliorating, and situational – that is when combined with the largess of an agency or bureaucracy, especially the ability

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to hedge in terms of information flow. (Think the 1998 mandated school bus study. A “study” was suddenly released by the WVDE when there was a chance for passing of required bus travel times as proposed by the governor.)

The no rough edges approach also allows the state superintendent to have considerable “referent” or “situational power,” meaning the ability to “look beyond” the WVBE or even to treat the WVBE with benign neglect—something Marockie did with aplomb – that is, with a far less attempt at obliqueness than Stewart.

## Tone for next state superintendent

In short, having no rough edges actually will set the tone expected from the next state superintendent, especially among the funders I believe Stewart may have actually managed to keep at bay — with the exception of Mezzatesta.

(Newspaper reports regarding Del. Harold Michael, D-Hardy, and his bringing home the bacon differ from the Mezzatesta scenario in that Michael made no agreement with the Ethics Commission about soliciting grants from the WVDE. He’s only acting like Sen. Robert C. Byrd, in other words.)

Indeed, I doubt chief legislators would warm to a state superintendent who’d attempt to treat funders as, well, funders. (To be fair, funders use dollars to determine educational policy, as stipulated by the state Constitution.) Nor will House and Senate Education Committees or organized education interests welcome a state superintendent who’d attempt to disturb their policy comfort level.

Having no rough edges means one can create alliances and approaches that are mutually beneficial (symbiotic) to the “exclusive” parties involved. These arrangements are usually held together by a certain balance (homeostasis) where both parties benefit from the largess of the other — in this case funds for policy or policy for funds, although not that overt in that the approach usually is self-limiting and self-correcting because the two parties know the limits.

When one of the parties exploits the understood limits, however, the other party is placed at a disadvantage and either responds accordingly or yields to the escalating party.

Of course, the situation with Mezzatesta becomes our example. And, I’m not the only observer who contends this arrangement grew out of the “no rough edges” approach, leaving the state superintendent, it was reckoned, vulnerable.

Instead, largely due to incessant news media coverage, Mezzatesta has become “vulnerable” as the WVDE investigates use of grants awarded to Mezzatesta with, it is alleged, Stewart’s knowledge.

## Hampshire investigation

While some West Virginia Board of Education members say they don’t like the state Department of Education literally investigating itself in terms of Hampshire County and the WVDE’s own

provision of money, I doubt these sentiments will play out publicly — nor do I think any WVBE member will call for what most business ethicists I have talked to say is a crying need for a private review of any WVDE findings—or at least to turn the matter over for independent inspection.

That, of course, leads one into several areas: Through having no rough edges and through the alliances that can be built through such an approach, especially with funders, Stewart has done more to elevate the sheer positional power of the state superintendent’s office than any of his predecessors, with the exception of Taylor.

The above assessment is a very harsh way of looking at things, however. What about this notion? Didn’t Stewart, realizing Marockie’s “jagged edges,” seek a sort of “tranquility” as an end rather than a conscious effort to consolidate power in the WVDE? Couldn’t the resulting concentration of power be an unintended byproduct?

Yet, the result can be said to have come, in some measure, at the expense of the state board, which sometimes is a pillory for the Charleston news media. Through the no rough edges approach, the board may have been marginalized to a degree—although that may

please some of its more dormant members.

To take one example, the effect of the state superintendent’s positional power elevation is clear in 2000 legislation that would grant him, rather than the WVBE, authority and control over Regional Education Service Agencies — the same group of people who, in 1994,

donned sack cloth and ashes, lapsing into mourning, when Marockie made that suggestion on a public television newscast.

Indeed, some legislators worked to carve out more distinct board power and authority, but reportedly have been blocked by the WVDE. In fact, former Sen. Education Committee Chairman Lloyd G. Jackson II, D-Lincoln, worked to “restore” power and authority to the state board and probably would have been successful in opening the board’s eyes and in holding the state superintendent more accountable had he remained a member of the board.

Having no rough edges not only means elevating the position one’s in, but it also means one can aid in the elevation of others for whom one can extract loyalty and advantage — something which always isn’t bad, of course.

Stewart, probably continuing the practitioner approach, paid deference to county superintendents — partly to hold this group at bay and partly to extract a certain loyalty through attention to those in the trenches, so to speak. In fact, some WVDE officials refer to county superintendents as “our guys.”

## Bowling alley in Flatwoods

Indeed, it was no accident that Stewart’s first formal public appearance was to a gathering of county superintendents at a bowling alley/meeting complex in Flatwoods. That spoke volumes. In the short run, it conveyed the message that these “guys” matter — their importance greatly muted by Marockie — and it meant, to the consternation of some observers — that Stewart wasn’t the reformer some parties had expected.

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## STEWART LEGACY

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By making these approaches and by pulling a large contingent of WVDE practitioners from the proverbial field, the WVDE may have submitted vision – or at least new vision – for a more narrowed, if not a practical view of things from the vantage of those used to seeing the world from the perspective of the county horizon. In other words, field practitioners may be good for process but is their view of the policy limited by such experiences?

Having no rough edges fits into the above in that management can be more fluid, letting all flowers bloom. This isn't necessarily bad and was an administrative practice used by FDR. A difference here is that FDR had a global, overpowering vision. I'm not the only one who has questioned just what the WVDE is all about – much less what it's trying to get done — a dominant question even among some WVBE members, legislators and interest groups.

Having no rough edges also means you choose your level of accountability, mainly because empowered people allow you to make that decision. Thus, some members of the state board complain about not being able to affect the WVDE or policy, yet the board itself has stood in the way of its own development. That move, coupled with Stewart's no rough edges, serves to elevate the position of the state superintendent who, for example, can cram the board's agenda with administrative presentations and the like, essentially indulging the board in the department's agenda and also soothing legislators and funders who don't know or fear the board.

Again, Jackson was on to this, but didn't complete his term.

The combination of all the above – even the more nuanced management style – means Stewart has done more to concentrate power in the WVDE than any of his predecessors. In a benign sense, his accomplishments came out of a desire to turn the heat down following Marockie's departure, fomenting needed tranquility within the education community. No matter any motive or the absence of motive, the WVDE's power and status has been elevated. (Of course, there's the little matter of mandate, which contributed to such, of course.)

### Luxury of legacy

Most of us want to indulge in the luxury of legacy-making. There's even merit in this. But, good, honest people are introspective enough to realize they're flawed. They're people with positives and negative traits.

They're people who've made good or bad policy decisions, at least as judged by others and history. And they're people whose decision-making affected others and other institutions for good or ill, although much of what we manage to accomplish in life is situational if not morally neutral.

In one sense Stewart found it easy to succeed largely because he exploited the "anyone but Marockie" syndrome. But it would be grossly unfair to say this approach was the sum and substance of his successes.

By building on that foundational emphasis of no rough edges and, what I contend is a sincere desire for "tranquility," Stewart developed a legacy and a WVDE culture that a successor will find hard to shake, especially in the short-term.

That is a powerful legacy.

— *O'Cull is executive director of the West Virginia School Boards Association*

## Important Legislative Dates

<input type="checkbox"/> Organizational Day	Wed., Jan. 12
<input type="checkbox"/> First Day of Session	Wed. Feb. 9
<input type="checkbox"/> Legislative Rule-Making	
Bills Introduced (20 <sup>th</sup> Day)	Mon., Feb. 28
<input type="checkbox"/> Special Calendar (House) (30 <sup>th</sup> Day)	Thurs., Mar. 10
<input type="checkbox"/> Last Day to Introduce Bills	
<input type="checkbox"/> Senate (41 <sup>st</sup> Day)	Mon., March 21
<input type="checkbox"/> House (45 <sup>th</sup> Day)	Fri., March 25
<input type="checkbox"/> Bills Must Pass House of Origin	Wed., March 30
Last Day of Session	Sat., April 9

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# WVSBA Recognizes 2005 Business Affiliates

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drotz@associnrehab.com

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hseufer@bowlesrice.com

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## Sound Bites

**“By making it ‘alternative education,’ there’s an incentive to refer students to the Academy, and they (county boards) don’t lose any money.”** – *Sen. Jon Blair Hunter, D-Monongalia, discussing the Mountaineer Challenge Academy legislation.*

**“The problem the House had is they should have added about 75 pages to this bill.”** – *Jean Lawson, Senate Education Committee Senior Legislative Analyst in response to Senate Education’s decision to defer action on a personal finance bill Tuesday. The bill is two pages long.*

**“There’s no philosophical problem in playing a (football) game. We’re just finding out how to do it.”** – *West Virginia University President David Hardesty answering a question by House Education member Danny Wells, D-Kanawha, concerning a WVU/Marshall University gridiron game. The last such matchup occurred in 1997, with WVU winning 42-31. Wells writes a sports column for the Charleston Gazette. MU Acting President Michael J. Farrell concurred that another matchup could happen as early as next year. Incidentally, Wells said both university presidents took the question too seriously.*

**“How did we end up with a 200-page bill without a fiscal note?”** – *House Education Committee member Patrick Lane, R-Kanawha. According to testimony provided by both the WVU and MU presidents, the proposed ‘flexibility’ bill will actually save the universities and, consequently, the state, money.*

## Meanwhile in Texas . . .

The Friday night lights in Texas soon could be without bumpin’ and grindin’ cheerleaders. Legislation filed by Rep. Al Edwards would put an end to “sexually suggestive” performances at athletic events and other extracurricular competitions.

“It’s just too sexually oriented, you know, the way they’re shaking their behinds and going on, breaking it down,” said Edwards, a 26-year veteran of the Texas House.

“And then we say to them, ‘don’t get involved in sex unless it’s marriage or love, it’s dangerous out there’ and yet the teachers and directors are helping them go through those kind of gyrations.”

Under Edwards’ bill, if a school district knowingly permits such a performance, funds from the state would be reduced by an amount determined by the education commissioner. Edwards said he filed the bill after seeing such ribald performances in his district.

– *From Fox Sports*



## The Legislature

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