



Center for Professional Development still alive

After long battle, RESAs get their funding

Refer to **Administrative Perspective**, page 11

Regional Education Services Agencies (RESAs) will receive \$4 million in General Revenue funding as a result of the April 16 passage of the state's FY06 budget, **House Bill 2005**.

RESA funding was an issue throughout the 2005 regular legislative session when Gov. Joe Manchin III introduced his budget that "zeroed" funding for the eight RESAs.

During the waning days of the session, there was discussion that RESA funding might be cut to about \$3.4 million — reportedly the Senate position — with the House holding out for a reported \$4 million.

Budget conferees eventually settled on \$4 million, a reduction of \$400,000 from last year's appropriation, according to Chuck Nichols, RESA III executive director and spokesman for all RESA agencies.

Nichols said the FY05 appropriation actually was less than what the agencies were to receive, based on calculations of .63 percent of the professional-educator step in the state school aid formula. According to Nichols, that amount "should have been" \$4.68 million.

In regard to this year's funding, he said he didn't know how

the reduced funding would affect the agencies or whether some might have to cut personnel or programs.

Net enrollment funding changes

In other budget matters, the state "34/1000 Waiver," which relates to school service personnel, will get \$400,000, the same as last year.

The Legislature appropriated \$6 million for "Increased Enrollment," based on **Senate Bill 604**, and \$450,000 for the bill's "Low Student Enrollment Allowance," which will aid the eight county boards with fewer than 1,400 students in net enrollment, based on distribution factors outlined in the bill.

This is the first year for such funding, with the legislation promoted by the West Virginia Association of School Administrators (WVASA) and supported by county boards and board members.

A total \$525,000 is allocated in a budget provision called "Sparse Population," which would only benefit Pocahontas and Pendleton counties. Those county boards of education also would be eligible for the "Low Student Enrollment Allowance."

According to WVDE officials, \$2.5 million is included in School Aid Formula Steps I and II (professional educators and school service personnel, respectively) for county boards in terms of legisla-

See **RESAs GET FUNDING** on page 4

Overview

STATS

Day of Session:	Adjourned Sine Die
Bills Introduced (not including pre-filed bills):	2,113
Education Bills Introduced (WVSBA count):	434
Education Bills Adopted (WVSBA count):	75

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QUOTE

"You're going to see some exciting things..." *Gov. Joe Manchin III in a recent interview with The Charleston Gazette. Manchin discussed his recent legislative success and future plans, especially legislation that ended bad-faith lawsuits in exchange for \$50 million in savings from the insurance industry.*

Conference to cover staffing, oversight; register now

County board members, county superintendents and school administrators should finalize plans now to attend the West Virginia School Boards Association's leadership conference May 20-21 at the Lakeview Scanticon Resort and Conference Center in Morgantown, said Howard M. O'Cull, Ed.D., WVSBA executive director.

O'Cull has been planning the program that features a review of legislation adopted during the 2005 regular legislative session, as well as programming relating to "oversight and monitoring" and secondary school staffing.

Staffing issues and oversight and monitoring, in particular, have been the subject of considerable discussion among county board members.

"We've assembled a really good program in conjunction with the state Office of Education Performance Audits and other monitoring-type organizations," O'Cull said. "It's no secret part of the programming is related to recent events with the Hampshire County Board of Education and other boards.

See **LEADERSHIP CONFERENCE** on page 6

Most will see increases in number of staff

Counties funded under 1,400-floor bill

By Howard M. O’Cull, Ed.D.

Last year, the House Education Committee considered a proposal that would have provided a 1,250-student “floor” for counties whose “economy of scale” is such that they may not receive adequate school aid formula funds to provide a quality education.

The House of Delegates adopted that bill late in the 2004 session but it died in the Senate Education Committee, where it wasn’t considered.

No companion legislation was introduced in the Senate last year.

House Bill 4018, as introduced last year, would have affected the three counties with the lowest enrollment: Gilmer, Pendleton and Wirt.

Part of the objection to last year’s bill came from county superintendents who said it didn’t consider the needs of counties with growing enrollment. They said it created an “artifice” by simply “saying” a county with fewer than 1,250 students was considered to “have” 1,250 students.

This year the West Virginia Association of School Administrators used the concept of the 2004 legislation, but expanded the floor from 1,250 students (net enrollment) to 1,400 students. This allows five more counties to meet the floor figure, including Pendleton and Pocahontas, the state’s two sparsest counties.

Pendleton and Pocahontas are represented by the Senate and House finance committee chairmen, respectively.

The legislation also was crafted within a section of Code relating to appropriation of funds to counties with increased student enrollments.

Senate Bill 604, this year’s bill, incorporates both concepts.

Under terms of the legislation, funds for growth counties would be appropriated based on the Senate’s suggested method (enrollment projections, rather than a numeric increase as the House had proposed in **HB2801**).

For low-enrollment counties, the bill borrows the HB2801 language.

The legislation, however, doesn’t simply provide money to these county boards. Rather, it establishes a means – or potential grant – for these boards to acquire the dollars, including an investigation of whether cooperative arrangements could be made with adjoining counties. Cooperative arrangements were the intent of **SB589**, which died in the House Finance Committee.

State superintendent to evaluate counties’ grant needs; methodology spelled out

Funds would be distributed based on these factors:

- The state superintendent shall “examine whether all of the (county board’s) resources available...are being efficiently utilized and whether additional assistance is needed within the county to improve its economies of scale.”
- Once the state superintendent has completed this examination, he or she may provide technical assistance to improve the county board’s use of resources available to the county so that those resources are used effectively.
- If the state superintendent finds that “additional technical assistance is needed to improve the economies of scale of the county, he or she shall determine whether the economies of scale may be increased with additional resources through the Regional Education Service Agency, through cooperative agreements with adjoining counties, and by technical assistance and other programs available to the state superintendent. The state superintendent shall take those actions that are within his or her authority to increase the economies of scale of the county by these means...”
- If, after these actions are taken, the state superintendent finds that additional assistance is needed to improve the economies of scale, the state superintendent may make a “grant of funds to the county to assist in improving its economies of scale. The grant of funds may include any restrictions, conditions and purposes that the state superintendent determines necessary to improve the economies of scale of the county.”

Method for projecting increased enrollment clarified in statute

Unlike previous increased enrollment bills, SB604 says the money shall be appropriated and is not contingent upon a “specific level of funding by the Legislature.”

Under terms of the bill, the West Virginia Board of Education is responsible for promulgating a legislative rule that establishes an

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See **COUNTY FUNDING** on page 7

Summary of major legislation that passed this year

Education bills were at forefront of session

During the 2005 Regular Session, the Legislature passed several measures that are important to county boards and superintendents, in addition to Ethics Commission changes and legislation necessary to conduct the June 25 vote on the state pension bond proposal.

Major proposals include legislation that allows teachers in the state's Defined Contribution Retirement Plan (DCR) to join the older Teachers Retirement System (TRS). There are several provisions to this bill, but a final version was not available at the time of this article's publication.

The measure, **HB2984**, enjoyed support from the Manchin Administration and the state's two teacher organizations.

Under terms of the legislation, all new school employees (as of July 1, 2005) will become members of the TRS (defined benefit retirement plan). A second bill provision requires the state to establish an education program for those currently enrolled in the Teachers Defined Contribution Retirement Plan (TDC) about the advantages and disadvantages of remaining in that retirement plan or of becoming part of the TRS.

The Consolidated Public Retirement Board will conduct that program.

Those in the TDC will vote next spring on whether they wish to become TRS members.

There are several other provisions.

Bank time renamed

Among the proposals adopted is legislation that allows greater flexibility with school calendar Instructional Support and Enhancement (ISE) days. **Senate Bill 94** also clarifies the length and use of "accrued instructional time," formerly called bank time.

SB 94 was adopted in the House Education Committee and is seen as an effort to shift the emphasis on completion of school instructional days to completion of school minutes.

Certifying nontraditional teachers

HB2528 is another significant piece of legislation.

Federal changes caused by the No Child Left Behind Act and the Individuals with Disabilities Education Act require some teachers to meet additional requirements to be "highly qualified" per NCLB standards.

This bill allows teachers who are currently certified in special education to obtain an authorization in the core content areas using staff development hours "... to the maximum extent possible."

It also has extensive provisions relating to alternative routes to the traditional four-year teacher preparation program for those with "non-education" degrees to become fully certified teachers without completing a traditional preparation program. They still would have to acquire 18 college semester hours' instruction in teaching, as well as participate in and complete monitoring by a team of educators in the school in which they teach.

For more information in regard to its many provisions, refer to the April 1 issue of *The Legislature*.

Also refer to Last Word, which is included on page 21.

Soft drink vending/P.E. regulated

Although **HB2816**, the governor's "healthy lifestyles" bill, underwent a number of revisions throughout the session, when it finally passed it mostly echoed Gov. Manchin's original proposal.

Soda pop was a major issue of the legislation, especially when considered by the House. The House legislation would have allowed beverages with up to 10 grams of sugar in junior high and middle school vending machines.

The final proposal mirrors existing WVDE regulations that bar soft drinks in elementary and middle schools, while requiring high schools that operate soft-drink machines to have at least 50 percent water, fruit and vegetable juices and other "healthy offerings."

A second major bill provision clarifies that elementary schools without physical education teachers or facilities may petition the WVDE to offer alternative programs to meet the bill's requirement of 30 minutes of physical activity three times weekly for students.

Additionally, students entering kindergarten, those in grades four through eight or in a high school physical education course, will have their body mass index calculated and reported in aggregate to the WVBE and Governor's Office.

Other bills that affect county boards

- **SB240.** Although relating to state employees, this legislation allows state employees 30 days of paid leave for kidney or liver donation and seven days of paid leave for bone marrow donation. Additionally, the legislation encourages "political subdivisions and private employers in this state to grant their full-time employees paid leave similar to the paid leave granted to full-time state employees under (the bill's provisions)." The measure also affects higher education employees.
- **SB248.** Heavily amended in House Education, the purpose of this bill is to develop a **state technology plan** incorporating education-related provisions from a 2004 House bill as well as incorporating the governor's recommendations, especially as they relate to coordination of technology to end program duplication, greater use of distance learning, and an evaluation of county needs, existing hardware and equipment, state Department of Education technology division staffing and the like. It also affects colleges and universities.
- **SB419.** This bill gives county boards "relief" from state or regulatory rules and regulations that hamper their flexibility. The Secretary of Commerce would receive the waiver requests. Eventually, the governor would compile requests and could recommend statutory or regulatory changes accordingly.
- **SB521.** This legislation requires the WVBE to study county board flood and general property insurance. According to Senate Education testimony, the bill is necessary because some counties have inadequate property and flood insurance.
- **SB741.** This bill exempts farming equipment and livestock (commercial farming) from personal property taxes. It will cost local

See **BILL SUMMARY** on page 6

'Money put in taxpayers' pockets'

Governor calls legislative session a success

Gov. Joe Manchin III in his April 10 weekly column said he was pleased with the results of the 2005 regular legislative session.

Manchin cited civil justice reforms as a major – if not the major – piece of session legislation.

In his column, the governor said the civil justice reforms, commonly referred to as tort reform, will “put money back into the pockets of our state’s taxpayers - not by taking money out of them. You have my word that I will now take personal responsibility for following through on the hard work of the Legislature with regard to these reforms and hold insurance companies accountable for lowering the state’s insurance rates as quickly as possible.”

Among other session accomplishments, Manchin cited the passage of legislation that deals with the growing methamphetamine problem as well as education issues. He said he asked legislators to “tackle the growing problem of meth labs in this state – and they did. I asked that they take steps to help our schoolchildren lead healthier lives – and they did. I asked that they give local communities more flexibility and the ability to better compete with our surrounding states– and they did.”

The governor applauded legislators for passing legislation that allows institutions of higher education to try new ways to increase their financial stability and viability. “I asked that they grant me the

ability to continue to reorganize state government in a way that maximizes managerial efficiency and allows for greater accountability – and they did.”

He notes other session accomplishments, including initiatives “that will close the loopholes in our state employees’ pension systems so that our citizens can be confident when they vote on June 25 for the Pension Bond Amendment that we will never let these systems get upside down again.”

Manchin concluded, “Put all of these major accomplishments together with the work done by the Legislature during the special session in January to tackle our workers comp problems (putting \$160 million back into our economy starting January 1, 2006 through premium reductions) and ethics reform, and it’s been a truly historic and remarkable 2½ months in which a total of at least \$210 million is being returned to

“Put all of these major accomplishments together . . . and it’s been a truly historic and remarkable 2½ months in which a total of at least \$210 million is being returned to the state’s taxpayers.”

– Gov. Joe Manchin III

the state’s taxpayers.

“As long as we continue to put our individual interests aside and work together as a team, West Virginia’s potential as a state will be unlimited – and our future, and the future of our children, will emerge brighter than ever before. That is my pledge to you.”

Source: “From The Governor’s Desk: A weekly column by Gov. Joe Manchin,” April 10, 2005.

RESAs GET FUNDING

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tion that increases school aid formula net enrollment caps. The legislation is **HB2578**.

Funding for staff development

In other budget matters, the Center for Professional Development, which would have been eliminated under the governor’s reorganization plan, will receive \$1.3 million in addition to an \$800,000 appropriation.

Although the budget intent isn’t clarified for the \$1.3 million, the \$800,000 in funding is likely to be used for “Professional Development Collaborative” with higher education, according to Gail Looney, CPD’s executive director.

The agency also will receive \$395,000 for a “Principals’ Academy,” Looney said.

The Legislature also approved \$477,225 for the West Virginia Department of Education to fund “strategic staff development.” The previous figure was \$500,000, according to WVDE officials.

According to Department officials, these moneys – which the agency has received for the past several years – are to be used for

general staff development .

It would appear that the Five-Year Demonstration Project Schools for minority and underachieving students (**HB4669**) will receive \$700,000 with spending details to be clarified in the Legislature’s Budget Digest, according to Mike McKown, who is responsible for the Department’s budget.

According to McKown, the Legislature also earmarked \$400,000 for WVDE math programs and \$300,000 for WVDE reading initiatives.

He said CPD Office also received \$300,000 for mathematics initiatives and that a previously-funded science initiative was “zeroed.”

PROMISE scholarships to be on budget

The bill also asks the PROMISE Scholarship Board to award scholarships “within the limits of available appropriations,” noting that the Legislature wants to avoid the mistakes of other states that couldn’t control or pay for their own similar programs.

The budget document notes that PROMISE expenditures will cost nearly \$43 million next year. The PROMISE Board is obligated to \$37.9 million in scholarship funds for FY06.

HB2578 information is covered on page 7.

Summary of higher-education bills

These are among the higher education bills adopted this session:

- **Senate Bill 347.** This is a higher education rules bill. Among other matters, the bill relates to the Underwood-Smith Teacher Scholarship; the Engineering, Science and Technology Scholarship Program, and the Medical Education Fee and Medical Student Loan Program.
- **SB401.** This measure would authorize transfer of various orders, resolutions, policies, rules and agreements from Bluefield State College and Shepherd University to the newly established New River Community and Technical College and the Community and Technical College of Shepherd.
- **SB603.** This is the higher education flexibility bill. For more information, especially as it relates to the Center for Professional Development, refer to the March 21 and 25 issues of this publication.
- **SB674.** This measure concerns “bundled” textbook sales at institutions of higher education. The bill would prohibit college professors from receiving incentives from textbook companies for requiring students to purchase bundled textbook packages. Professors could receive royalties for their own copyrighted materials or texts, however.
- **House Bill 2866.** This bill would allow West Virginia National Guard members discharged from military service due to wounds or injuries received in the line of duty to continue receiving tuition and fee payments (higher education) as long as they are still members of the guard. The bill applies to wounds or injuries not necessarily received in combat.

Busing, uniforms and ‘lone rangers’ highly debated

Education bills that didn’t make it still part of the legislative process

Legislative sessions are denoted not only by bills that successfully become law but also by proposals that never made it through the process. They often are passed by one house and die in another.

The governor’s proposed busing measure would have made the West Virginia Board of Education’s (WVBE) recommended student bus travel times into statute.

The original bill, **House Bill 3040**, also would have required county boards of education, when amending Comprehensive Education Facilities Plans (CEFPs), to seek waivers from what would have been statutory bus travel time restrictions by appealing to the WVBE.

The state board and county boards, when adding new bus routes, would have had to take an additional vote on routes that exceeded the travel times.

The House Education Committee significantly amended the bill, making the travel times advisory, based on a section of law relating to cooks-per-meal advisory ratios.

Under terms of the HEC proposal, both the county board and WVBE, when amending or changing CEFPs to add new bus routes, would have had to take separate votes on the route changes that would have exceeded the recommended guidelines.

The HEC amended that “separate votes” provision so that only county boards would have had to take the separate vote.

Busing bill’s demise ‘not a defeat’

The House Finance Committee completely scrapped the proposal, calling instead for a study of bus travel times.

The Senate Education Committee didn’t consider the House

bill, which was the only bill the governor proposed that didn’t get to the floor of both houses.

According to various sources, House leadership was wary of the legislation and preferred a study instead of the original bill and the HEC-amended version. One House Education staffer quipped, “The governor got his bill, and the speaker got his study,” meaning, had the bill passed, the governor would have had to veto his own legislation because a study alone was a greatly compromised proposal.

Linda Martin, executive director of the small schools advocacy group, Challenge West Virginia, in an April 13 radio interview said the busing proposal’s demise is not a defeat, but a vehicle to put further pressure on legislators to examine long bus rides.

Although Gov. Joe Manchin III spoke in favor of the legislation at a press conference, administration officials didn’t push the bill as heavily as they did other legislation, and its chances in the Senate were slim, according to sources.

While school administrators might take comfort in the bill’s death, CWV is energized to organize locally and gear up for next year, Martin said.

Bill critics also said the proposal, as finally approved by House Education, didn’t do “anything” in that travel times were, as now, “recommended.”

Shared administrative services

While the Senate adopted **Senate Bill 589**, a West Virginia School Boards Association (WVSBA) proposal to encourage sharing of administrative services, the bill ultimately died in the House

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BILL SUMMARY

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governments about \$874,000, according to the West Virginia Association of Counties.

- **HB2286.** This bill is related to high school and college students interested in playing of Taps at veterans' honors funerals. The governor signed this bill Feb. 25, making it the first education bill adopted this session.
- **HB2350.** This bill was introduced to change 2004 legislation relating to **out-of-state teachers** seeking to work in West Virginia. It's designed to benefit counties, such as those in the Eastern Panhandle, with potential teacher shortages and those counties with shortages in areas such as mathematics and science. The legislation would have reflected differing certification standards in some states, including Kentucky and Maryland, where teachers aren't granted a teaching license until after they're employed. Under terms of this legislation, out-of-state teachers could be granted a West Virginia teaching certificate if they meet the requirements of the state issuing the certificate except for actual employment.
- **HB2466.** This legislation removes archaic language (racial references) from state educational codes. The first attempt to excise this type of language from state Code occurred in the early 1990s when Del. Percy Ashcraft, D-Harrison, was House Education Committee Chairman. Apparently, some Code references were unintentionally omitted, according to the 2005 bill sponsors.
- **HB2527.** First considered last year, this bill would allow some school service personnel competency tests to be given at local vocational schools.
- **HB2812.** This is a "local bill" that gives the Preston County Board of Education additional time to place an excess levy before voters.
- **HB2837.** A legislative perennial, this bill will require integration of **personal finance instruction** in public education curricula, although a separate course relating to this topic won't be required. Various organizations, including the state Treasurers' Office, may supply curricular materials, according to testimony given in the House and Senate education committees. The West Virginia Education Association opposed this bill.
- **HB2891.** This is the governor's **reorganization bill**. While the governor will now become chairman of many agencies and boards, including the School Building Authority of West Virginia and the state Educational Broadcasting Authority, the Governor's Cabinet on Children and Families didn't make the list due to a strong lobby of interests, including Family Resource Network (FRN) personnel. The Center for Professional Development also will remain under the Secretary of Education and the Arts. (CPD responsibilities are spelled out in the higher education flexibility bill, **SB603**. Refer to "Administrative Perspective," included on page 11, for more information.)
- **HB3012.** This measure 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.
- **HB3018.** The House adopted this last year, but it died in the Senate. It designates the Mountaineer Challenge Academy in

Preston County as a "special alternative school." MCA officials said that designation wouldn't result in county boards losing funds for students who attend the Academy because their "attendance" is underwritten largely by federal funds received from the West Virginia National Guard. The first such program was offered in the mid-1990s, according to back issues of *The Legislature*.

- **HB3152.** This legislation, which relates to the state Board of Risk and Insurance Management, will ensure that BRIM isn't required by law to insure each and every activity of a county board of education. The legislation resulted from a recent lawsuit in which the state Supreme Court of Appeals ruled that BRIM was responsible for covering all activities of an insured agency. Based on that ruling, legislators recently passed a law that affected some state agencies. This legislation applies to county boards. Based on BRIM officials' remarks to *The Legislature* and committee testimony, there shouldn't be any changes in BRIM coverage.

Finally, the Legislature, as part of a tort reform measure, adopted legislation to delay a scheduled Public Employees Insurance Agency (**PEIA**) **premium increase** for six months.

West Virginia Education Association officials said in a news release, "While WVEA is grateful for the assistance of House Speaker Bob Kiss, D-Raleigh, and the governor, in working out a delay in premium increases, it is only a partial step. WVEA *does not* support any additional increases in PEIA premiums. We will work during the special session to deal with the premium increase issue as well as prohibiting PEIA from shifting costs to employees."

The Governor has already announced a late-summer special session to address salaries and other employee benefits.

Editor's note: This article was written by WVSBA Executive Director Howard M. O'Cull. This listing is not comprehensive and does not include all education-related bills.

LEADERSHIP CONFERENCE

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"The tools are there for boards to have a handle on their systems, and we're going to bring them to the forefront in this meeting."

The secondary school staffing question arose in several counties, partly because of block scheduling and what many consider its detrimental effects on mathematics and other curriculum. "We will discuss block scheduling, but the workshop segment is broader," O'Cull said.

He said the session will feature a "holistic look" at scheduling issues.

WVSBA counsel Howard E. Seufer will present the legislative review.

To register, contact Shirley Davidson, association conference registrar, at sdavidson@wvsba.org.



NINE BILLS PASSED

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“objective method for projecting the increase in net enrollment for each school district.”

Once that rule is developed, the state superintendent will use the methodology to “project the increase in net enrollment for each school district.”

The bill then directs the state superintendent to “multiply the average total state aid per net pupil by the sum of the projected increases in net enrollment for all school districts and report this amount to the governor” for including in his or her proposed budget.

How the money will be distributed

The Legislature then will provide the West Virginia Department of Education with the “amount (of funds) calculated by the state superintendent and proposed by the governor.”

Sixty percent of a district’s funds, based on the above provisions for calculation, will be distributed by Sept. 1 annually.

After the first distribution of funds, the state superintendent will “compare the total actual amount to be allocated to each school district for the year,” with the “total actual amount to be allocated to each school district for the year (being its) actual increase in...net enrollment multiplied by the average total state aid per pupil.”

This second funds distribution will be made by Dec. 31 annually.

The bill includes a proviso that if the amount distributed to a school district during the first distribution is greater than the total amount to which a district is entitled to receive for the year, the district must refund the difference to the WVDE before June 30 of the fiscal year in which the excess distribution is made.

If there isn’t enough money to pay for the full amount of the increased enrollment distributions, then funds will be provided proportionately and the governor will be responsible for requesting a supplemental appropriation in the proceeding legislative session to cover the “reduced amount.”

Most counties will see increased staff

The net enrollment bill is **HB2578**.

Based on legislation recommended as part of the settlement of the longstanding *Recht* school finance case, this bill would remove the school formula “cap” on net enrollment over 12 years.

As a result, county boards could see a slight increase in personnel, adding a statewide total of about 25 teachers and 42 school service personnel per year, beginning in FY06.

Almost all county boards would see an increase, except for next year because 12 counties already are funded at the adjusted enrollment limit for professional educators, according to WVDE officials.

The measure establishes a \$2.5 million annual appropriation for the next three fiscal years to cover the increased costs.

Based on information provided by the WVDE when the measure was discussed, a few county boards won’t increase staff because they already receive

money for additional professional educators under a state aid funding provision that requires the state to pay each county for at least five non-professional instructional personnel.

WVDE officials said, however, that all county boards will be able to

increase the number of service personnel.

For information regarding each county’s projected increase in personnel, refer to the March 4 issue of this publication.

The chart was prepared by WVDE officials and distributed to legislators.

The late Ken Price, who was superintendent of Pendleton County Schools, helped fashion the 1,400-floor provision included in the increased enrollment bill.

WVSBA supported SB604, and several association members said they contacted legislators about its passage. They said they believed some senators opposed the measure because of policy aspects, especially since the number of counties affected by the bill increased from three to five.

Some legislators said they fear additional “floor” requests will be made during the next few legislative sessions because of the precedent set by this legislation.

SB589 was a 2005 WVSBA Legislative Priority.

— *O’Cull is WVSBA executive director*

“ The legislation doesn’t simply provide money but establishes a means – or potential grant – for boards to acquire the dollars.”

Register Now: 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.*

UNPASSED BILLS

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Finance Committee because its provisions amended statutes relating to Regional Education Service Agencies (RESAs).

Additionally, House Finance leaders opposed the “vehicle” carrying the legislation, namely **Senate Bill 750**. That legislation would have made RESA funding subject to legislative appropriation.

Rather than amend the bill to include the House’s proposed RESA language, which was far more expansive and included in **HB3108**, House Finance leaders simply didn’t consider the measure, meaning RESA funding became part of the budget negotiations. The sharing of services proposal died because of that decision.

WVSBA Executive Director Howard M. O’Cull, Ed.D., said he will meet with RESA executive directors on April 20 to discuss how greater sharing of services can be accomplished.

Moreover, O’Cull said the SB589 legislation is already in code and that, for county boards to consider its prospects, they may need a “nudge” from RESAs. He also points out that when the WVBE heard about the legislation last December, members asked whether a specific bill is needed.

“This isn’t spin. Obviously our proposal was lost but we can use existing law (§18A-4-8d) to accomplish the sharing of services objective, especially if RESA executive directors will come on board,” O’Cull said.

He said that RESAs, as in the past few years, have had to justify what they do, and that sharing of services, given declining student enrollments, is good policy and a good role for RESAs.

Additionally, O’Cull said when RESA III Executive Director Chuck Nichols presented before the House Education Committee earlier in the session, he mentioned that the eight regional agencies were best equipped to provide more regionalized central office administrative services.

Acting singularly

HB2635, approved by the House of Delegates on a 99-1 vote, wasn’t considered by Senate Education.

The measure, which has been introduced the past few legislative sessions, would penalize county board members who act independently of their board in ways that might “bind” the board or that could place the member in a position of acting outside the bounds of board policy.

The bill was last considered in the 2003 session but was among the first pieces of legislation adopted by House Education this session.

Based on a WVSBA recommendation, it was amended so that violating the measure might be considered malfeasance in office, a reason for which a county board member could be removed from his or her position.

‘Lone rangers’

While most county board members and county boards weren’t opposed to the bill in principle, some members and boards said its provisions could be used against more “activist” board members. A House Judiciary staffer called them ‘lone rangers’ when he explained the bill.

The Hardy County Board of Education took that stance when it lobbied senators against the measure. The same stance also was taken by Wayne County Board members who made their appeals

directly to Senate Education Chairman Bob Plymale, D-Wayne, according to WVSBA President Dr. Rodney Thompson, who also is the Wayne County board president.

The bill never made it to Senate Education’s agenda and it hasn’t in all the years it has been adopted by the House. HEC sponsors, including lead sponsor David Perry, D-Fayette, however, are likely to introduce the measure again next year.

This year’s bill also had a provision that would have required county board members with possible conflicts of interest to announce them prior to voting. It is based on a legislative rule.

That provision was added at the request of Fayette County Board members, Perry said.

Hardy County BOE officials have asked WVSBA to discuss the measure at a future association meeting.

School uniforms

Critics allege that a school uniforms measure adopted by House Education, **HB2977**, was “Christmas-treed” and “farcical” because is so laden with provisions. Indeed, the bill had so many rules regarding school uniforms that few county boards would have used the statute.

The bill died in the House Judiciary Committee after it attracted a warren of enemies, including representatives of the state chapter of the American Civil Liberties Union, religious groups, and civil libertarians, not to mention House Judiciary Chairman Jon Amores, D-Kanawha.

The senate version, **SB290**, died in House Education and was never considered by the full committee. Unlike the highly scripted HEC bill, this legislation apparently would have required a public hearing – apparently one per county — regarding whether uniforms should be required.

The House legislation was based loosely on the Kanawha County Board of Education’s approach to school uniforms. Three Kanawha County schools require uniforms, according to testimony in 2004 interim meetings.

The issue came to the forefront in a 2004 bill that was amended to require uniforms in public schools. While that particular provision was removed, legislators resolved to study the issue during last year’s interim meetings.

A senate resolution, relating to requiring school uniforms, also didn’t make it through both houses.

Other bills that didn’t make the cut

These are among other education-related bills defeated during the 2005 regular session:

- **SB159**. Related to consolidation of local governments. While adopted by the Senate – Sen. Brooks McCabe, D-Kanawha chaired a commission appointed by former Gov. Bob Wise – the House didn’t consider the measure. The legislation, however, is likely to be considered in the 2006 session. It didn’t affect county boards but county and municipal governments, drawing considerable criticism from county officials and some legislators for that “omission.” Senate Education Chairman Plymale was a member of the commission.
- **SB701**. Dying in House Education, this measure would have eliminated the requirement that statewide student assessments occur at specific grade levels.
- **HB2328**. This legislation, which died in the Senate Judiciary Committee, would have given “precedential” status to opin-

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ions issued by the state Ethics Commission's Open Meeting Law committee. Currently, the OML Opinions apply only to the requestor and don't have application to all similar situations—unlike other EC Opinions.

- **SB622.** This proposal, which died when the House of Delegates didn't approve a motion to suspend rules to consider the bill on the last day of the session, would have granted assisted living or similar facilities with not-for-profit status a property tax exemption. The price tag: \$1.4 million, according to the West Virginia Association of Counties.
- **SB675.** This bill would have allowed county boards to enter into lease-purchase arrangements for school construction projects. This measure, considered for the first time this year, died in House Finance.
- **SB701.** Under terms of this proposal, state law would have been amended to strike a section of law requiring statewide assessment to occur at certain grade levels. It died in House Education.
- **HB2012.** This legislation, first considered last year, would have provided board employees responsible for Medicaid waiver billing a pay increase. Pay raise dollars would have been deducted from Medicaid waiver dollars a county board receives. Although the measure passed the House, it died in Senate Education. When considered by House Education, Del. Walter Duke, R-Berkeley, opposed the bill, saying it was a "pay raise" for these employees, noting that Manchin Administration officials were slated to consider pay increases in a special legislative session likely to be in September.
- **HB2465.** This proposal would have provided a \$2,500 salary supplement and expense reimbursement for professions such as counselors, school nurses and school psychologists who seek and obtain "national certification." The bill died in House Finance. It was the subject of considerable debate in House Education due to the application of an original \$16 million fiscal note. The eventual fiscal note, based on a lobbyist who works for the groups involved, was closer to \$440,000. Jason Webb, the lobbyist, said the measure will be considered during the special session when other pay proposals are reviewed.
- **HB2525.** This bill died in Senate Education on a 4-4 tie vote when it became the subject of considerable discussion about the removal of a section of law concerning teaching of character education. Under terms of the original bill – the aforementioned provision was added by House Education – the West Virginia Department of Education would have been exempted from contracting for an independent evaluation of character

**Bills that regulated
bus travel times,
established school uniform policies
and set guidelines for
sharing county services
were among measures
that died this session.**

education and similar programs, such as the behavior-modification Responsible Students Program. According to WVDE officials, the last independent review cost more than \$150,000. To fund the program, the WVDE would have to use federal funds it receives for its Healthy Schools division, according to Melanie Purkey, executive director of the WVDE's Office of Student Services and Health Promotion.

- **HB2603.** The purpose of this legislation was to change existing law relating to the distribution of funds for tuition reimbursement for teachers seeking certificate renewal or additional endorsements in teacher shortage areas such as mathematics and science. Under terms of the law, as amended in 2002, it uses a phased-in 50-50 formula for distributing funds between the two areas. No more than 75 percent of funds, however, could be appropriated to either category. The bill would have allowed the West Virginia Department of Education (WVDE) to disregard the 75 percent provision if, during the final funds-processing of the fiscal year, the 75 percent limitation would amount to funds remaining with qualified applicants, due to the limitation, not being reimbursed. The bill died in Senate Finance.
- **HB2855.** This legislation died in Senate Finance. It would have

allowed teachers who take voluntary leave to **retain their seniority** during the period of the leave. They could include the added years when seeking re-employment. Although it passed Senate Education, several SEC members seemed less enamored by the legislation than the House of Delegates. House Speaker Bob Kiss, D-Raleigh introduced the original bill, while Sen. Ed Bowman, D-Hancock, ques-

tioned lobbyists about why they would support a measure that would allow an employee taking voluntary leave to "leapfrog" over a current employee. Bill proponents, including both state teachers' unions, said the measure would benefit women who may take voluntary leave to care for their children and then seek to return to teaching. Bowman is has a labor relations background.

- **HB2963.** First introduced this year, this measure, which died in Senate Judiciary, would have allowed excess levy elections to be held in conjunction with Primary Elections.
- **HB3019.** Introduced the past two years, this measure would establish the Appalachian Education Initiative as a specified community education group responsible for promoting the arts in West Virginia. Critics contend the legislation isn't necessary and that the privately funded group can continue its arts education effort without legislation. It died in Senate Education, like last year.
- **HB3055.** The purpose of this measure, which also is the subject of a House Concurrent Resolution the Legislature failed to adopt, was to require the West Virginia Secondary Schools Activities Commission (WVSSAC) to schedule at least two

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- separate classes of competition at all end-of-year interscholastic athletic tournaments. It was particularly aimed at minor sports.
- **HB3107.** This measure included two provisions: One relating to a “Diabetes Care Plan” and the other a ratio for employment of school nurses in the public schools. The bill died in Senate Education. Critics charged that it “rewarded” counties that hadn’t used some of their school aid formula dollars to hire school nurses or to contract for nursing services when other counties hadn’t.
 - **HB3130.** This legislation was first discussed about a decade ago in House Education. It would have allowed **county health departments** to inspect schools in regard to **sanitation**. Senate Education wrestled with the bill for two meetings, finally adopting a \$100 fee that each school would pay for the inspections. The measure, which was adopted by Senate Finance, died on the Senate floor when there weren’t enough votes to suspend rules to pass it. Del. William Proudfoot, D-Randolph, sponsored the bill. In an appearance before the SEC, he told members that the proposal was necessary in some schools and that the inspections would become a matter of record for schools if they failed the tests. He said the state budget would have enough money to reimburse local health departments for the inspections. Proudfoot first discussed this type legislation in the mid-1990s when he was House Education vice chairman. Ironically, newly elected Sen. Clark Barnes, who also hails from Randolph County, was a primary opponent of the legislation.
 - **HB3225.** Introduced in various forms in previous legislative sessions, this bill would have clarified newspaper publishing requirements related to county board expenditures, as well as requiring county board fiscal officers to abide by standardized accounting procedures. The latter provision was stricken due to lobbying by the state Association of School Administrators. The bill died in Senate Finance.
 - **HB3359.** Introduced to clarify a 2004 statute, this bill related to filling the positions and extra-duty assignments of absent school bus operators. The bill died in Senate Education. According to Bob Brown, West Virginia School Service Personnel Executive Director, the bill (or similar legislation) is likely to be considered during the special session when school employee salaries and benefits are discussed.
- Finally, legislation that would have given women the right to breast feed in public was defeated. It had a provision that essentially prohibited breast feeding in schools.
- Editor’s note: This article was written by WVSB Executive Director Howard M. O’Cull, Ed.D. It is not a comprehensive listing of education-related bills.*

Seeing the Legislature through the eyes of an intern: a special learning experience

By Jody Pauley

As an intern for the West Virginia House of Delegates, I have learned much about the government process of our great state. I have learned more being here and seeing the process firsthand than I ever could from textbooks or a classroom. Fortunately, I was able to work with the House Education Committee, which treated me like staff instead of an intern.

One of the most overwhelming things I learned during the West Virginia Legislature’s 2005 Regular Session is the importance of staff. Everyone has a role that he or she plays in order for the system to work smoothly. It truly is a big team. I know a lot about teamwork, as I recently wrapped up my football career at Glenville State College.

I was able to work with Melinda Ryan Swagger, legislative assistant for House Education Chairman Tom Campbell, in handling constituent requests and concerns as well as providing information to the committee. I was able to get a real feel of how many citizens are active in the system and I was encouraged by their participation.

Candace Kraus, legal counsel for House Education, let me become extremely involved in drafting **House Bill 3163**, which relates to higher education bundled textbook packages.

Chairman Campbell even allowed me to present the bill to House Education. A lot of time and effort go into drafting the bills before they are even introduced. The time Kraus and Dave Mohr, HEC senior policy analyst, spend on bills is mind-boggling.

The per diems are also very important to the process. Their work is sometimes unsung outside of the staff, but their part in the process is an important piece of the puzzle. Ralph Kennedy, Vicki

McCaulley and Audrey Lake all played a vital role in making this a successful session for our committee.

The process is so time consuming, that without staff members playing their part, there wouldn’t be enough time to get everything done. I have learned a lot from each of the staff members and I hope I was able to play my part as well as they did.

Lobbyists are another important part of the puzzle. Their knowledge about the interests they serve is amazing. They are able to provide information at the spur of the moment. It is impossible for every member of the House to know about every issue and the lobbyists play a major role in making that happen.

I would be remiss if I didn’t mention the importance of the members in this process. Del. Campbell took me under his wing and allowed me to see every aspect of the legislative process. I was not only able to observe the process, but I became a part of it. His guidance has led me to possibly return one day as a member of the House of Delegates.

Finally, throughout the session I was encouraged by the participation of the citizens of West Virginia, whether they were pages from schools around the state, representatives of numerous organizations that graced the halls of the Capitol or those who stopped in to meet with Del. Campbell. Without the citizens, none of this would be possible and they are the most important part of it all.

—Pauley, a South Charleston native, is a senior majoring in English with a marketing minor at Glenville State College. He will work with The Charleston Daily Mail to finish his internship.

Solid successes, a few disappointments

WVASA glad busing bill didn't pass

By Martha Dean, Ed.D.

This Legislative session was uncertain until its last day. The West Virginia Association of School Administrators' first priority was change the law about funding increased enrollment.

Our goal was to remove the provision that made the funding dependent on the Legislature and make it definitely a part of the formula. This was in the Senate version of the bill.

The senators added a provision to fund increased enrollment in the current year. The House sought to remove from the increased enrollment count pre-kindergarten students.

These issues were volatile until late on April 16 when the House conceded to the Senate on these issues. The bill went to both houses that night and was overwhelmingly passed.

The second part of our first priority also was found in **Senate Bill 604**, a provision to permit low enrollment counties – those with fewer than 1,400 students — to seek additional funds because the current formula and their extraordinary efforts are not adequate to meet state board policy or the requirements of law.

The House added this provision to **SB604**, with the Senate then concurring to that provision.

Our success was due to many factors. Many superintendents were active in seeking the assistance of their delegates and senators. The representatives from the Eastern Panhandle were very aware of the need for money for extra students who enroll throughout the year. Currently, students who enroll after the beginning of the school year are not funded until the following year.

Senator John Unger, D-Berkeley, was adamant in his support for the increased enrollment changes. Sens. Bob Plymale, D-Wayne, and Larry Edgell, D-Wetzel, provided great leadership in the Senate Education Committee and managed to hold out for key provisions.

Delegates Tom Campbell, D-Greenbrier and Larry Williams, D-Preston, listened to WVASA representatives early in the session as we explained our concerns to them. They were always open to conversation and suggestions and their leadership throughout the session was outstanding. They recognized the dire straights of many small counties and were solid in their support of that issue.

Calhoun County Schools Superintendent Ron Blankenship provided great support and leadership for the small counties. I appreciated the determination of Berkeley County Schools Superintendent Manny Arvon as he called senators and delegates the last days of the session to make sure **SB604** was on track for passage.

One big positive this session is that there was no omnibus bill that affects a large variety of public education issues. The bill closest to being an omnibus bill is **SB603** and it deals mainly with higher education.

The Center for Professional Development is one topic within

this bill as it specifies several changes in the size of the center's board, as well as its composition. But, CPD does not directly affect classroom instruction.

We failed to accomplish everything we hoped to do this session. We wanted to create a new section of the funding formula to pay for professionals other than teachers, such as school nurses.

We came close on the nurses issue with a bill that wasn't perfect by any means, but it would have begun to fund nurses in a step designated as Step 1a, outside of the 53.5 professional per 1,000 adjusted enrollment.

I think people are beginning to understand that schools today

do many more things than teach students. It is important to make sure that adequate funding is available to provide the services the public now demands from school nurses, counselors, treasurers, and administrators.

I am hopeful that when the school aid formula study

is under way, a comprehensive plan that recognizes this issue emerges.

We missed our goal to create a service personnel category for nurse's aides. No matter which approach was tried, we faced opposition. The nurses didn't like adding nurse's aides and service personnel were dissatisfied with adding another level of "Aide V," which would specify a nurse's aide license. There's always next year and maybe we can find another way to accomplish this.

We luckily escaped a law that would have made it more difficult for districts to add new schools, particularly consolidated ones, without exceeding limited bus travel times that would have been mandated.

This state's mountainous landscape sometimes lacks good roads, making it extremely difficult to reach many rural areas. We cannot afford a school in every small community because of other restrictions, such as split-grade classrooms. It is good this bill languished and died.

When I wrote this, not all the enrolled bills were complete, so I am a little in the dark about the provisions of **HB2984**. This bill changes some provisions of the current defined benefit retirement system. New members no longer will be able to borrow against their retirement as of July 1, 2005.

I believe this bill provides for allowing current members of the defined contribution system to vote on whether they wish to join the defined benefit system. As I understand it, the majority will rule and either everyone will join or will remain in the defined contribution system. Based on comments I have heard, this may be a controversial election.

In the waning hours of the Legislature, when an enormous number of bills finally completed their circuitous way to completion

See **ADMINISTRATIVE PERSPECTIVE** on page 19

"I think people are beginning to understand that schools today do many more things than teach students."

America's 26 most dangerous schools, and other fables

No Child Left Behind a 'modest' reform in the right direction for the country

By Jay Mathews

If you believe what you read in newspapers like mine, everything seems to be divided into blue states and red states: Election results, religious preferences, leisure activities. What about school reform?

If you stick to the stereotypes, then the red states of the desert west and the south, whose residents voted mostly for President Bush, must be enthusiastic advocates of the president's No Child Left Behind law. And the blue states, in the northeast and on the Pacific coast, must be mightily resisting this Republican plot to interfere in public education.

But once you look at the map, and learn how different states react to the annual tests and teacher-quality rules, the red-blue split disintegrates. Blue-state Massachusetts, for instance, has adopted tough statewide tests and reported good progress, while red-state Utah has probably been the most rebellious of all the state governments, regularly threatening to reject federal funding and shed the president's program altogether.

It turns out it is not each state's political history that influences how warmly they embrace the new federal accountability measures, but their educational history. Many states in the south have long struggled to improve their public schools in order to improve their economies. Some of their governors invented the standards movement that evolved into No Child Left Behind, but that commitment to standards also bloomed in big urban and industrial states in the west and east, such as California, New York and New Jersey.

It depended on the interests and platforms of the elected governors over the last 20 years, and as the No Child Left Behind is beginning to raise its requirements, each state is reacting differently.

That is one of the peculiarities of the federal system, but in the case of No Child Left Behind, some reactions have been bizarre and show that whether it is blue states or red states, the future of this new federal law is very difficult to predict, and even more difficult to measure.

Take this remarkable example. A small, unobtrusive graphic map of the United States on page S7 of the Dec. 8 issue of Education Week is titled, "Persistently Dangerous Schools." It shows how many public schools have been defined as "persistently dangerous" by each state under the rules of No Child Left Behind.

Hmmm. There are just 26 schools in only three states. Pennsylvania has given the designation to 14 schools and New Jersey has

done the same with 10. That makes a certain amount of sense. Those are heavily populated states with large cities where crime and poverty are rampant and some public schools would likely be affected.

But where are New York and Illinois and Ohio and Michigan and California and a lot of other places with similarly afflicted neighborhoods? And if all their schools are as safe as Sesame Street, what in the name of all the statistical deities is South Dakota doing on this map, with two persistently dangerous educational institutions?

I laughed when I saw the map on page S7, and then realized it conveyed an often-overlooked message about No Child Left Behind.

The proponents of the law say it will make our schools accountable to parents and taxpayers by forcing the schools to annually report test scores, teacher qualifications and even crime statistics.

This, the proponents say, will embarrass the schools, school districts and states that don't look so good on these measures and help them get better, along with extra money and school change requirements.

The opponents of the law say it will make our

schools worse by forcing teachers to focus on test scores rather than the social, emotional and intellectual growth of our children. They say the accountability rules will overwhelm the states and districts with red tape and make good schools look bad just because one or two third graders in one demographic subgroup forgot to carry the 5 on a math problem on the state test.

The map on page S7 says something entirely different, which I think should be a comfort to No Child Left Behind bashers, and a reality check for the law's supporters, like me. It says that this is still America, with a Constitution that gives states, both red and blue, power to frustrate whatever the federal government tries to make them do, and they are using it to turn No Child Left Behind into one more modest reform that will likely nudge our schools in the right direction, but not make that much difference and not do much harm, either.

I tried to find which two woebegone schools in South Dakota were the only places west of the Ohio River forced to become part of the federal government's Blackboard Jungle list. Rick Melmer, South Dakota's secretary of education, said they are Cheyenne-Eagle Butte Junior High School in Eagle Butte and the George S. Mickelson Education Center in Redfield.

He also told me that he would have to warn the schools that he had identified them to me, because the state had not named them yet, under rules that allow states to delay public identification. In

See **GUEST PERSPECTIVE** on page 20

"State governments are not moving very quickly to align themselves with No Child Left Behind."

Bill Abstract

Editor's Note: This is a list of education and selected education-related bills, with action current through April 15, 2005. For information relating to any of the measures listed, 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.

Senate Education Bills

- **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. Passed Senate 2/28/05. Passed House with amendment 4/8/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **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. Committed to Finance on 2nd reading 4/6/05.
- **SB153.** Revises state Ethics Act legislation enacted during 2005 Special Session. Passed Senate 3/21/05 – House concurred with Senate amendment and passed 3/22/05. Referred to Governor 3/31/05. Approved by Governor 4/8/05.
- **SB159.** Creates Consolidated Local Government Act. Passed Senate 3/9/05. Referred to House Judiciary 3/18/05. On 3rd reading Special Calendar 4/9/05.
- **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). Passed Senate 2/28/05. Passed House 4/9/05. Legislative action complete.
- **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 House Finance 3/18/05.
- **SB282.** Continues School Building Authority of West Virginia (state Sunset legislation). Passed Senate 3/1/05. Passed House with amendment 4/8/05. Senate concurred, passed bill 4/9/05.
- **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. Passed Senate 3/9/05. Passed House 4/7/05. Legislative action complete.
- **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. Passed House 4/01/05; completed legislative action. Referred to Governor 4/13/05.
- **SB419.** Provides governmental entities relief from certain policies, rules and regulations. Passed Senate 3/29/05. Passed House 4/9/05. Legislative action complete.
- **SB504.** Relates to high-tech research zones, parks and technology centers. Referred to Economic Development then Senate Education Finance 3/10/05. On 2nd reading to Education 3/22/05.
- **SB521.** Requires study on county board flood and general property insurance. Passed Senate 3/28/05. Passed House 4/9/05. Legislative action complete.
- **SB585.** Allows disclosure of juvenile records in certain cases. Passed Senate 3/22/05. Passed House 4/9/05. Legislative action complete.
- **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. Passed House with amendment 4/9/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB604.** Establishes method for projecting increase in net enrollment for each school district. Passed Senate 3/22/05. Passed House 3/31/05. Passed Senate (Senate concurred with House amendment as amended) 4/4/05. House refused to concur 4/6/05. Senate adopted conference report, passed bill 4/9/05. House adopted conference report, passed bill 4/9/05. Legislative action complete.
- **SB622.** Clarifies exemption for property used by certain not for-profit, tax-exempt corporations, including assisted living complexes. Passed Senate 3/29/05. Referred to House Finance 3/29/05. On 3rd reading House Calendar 4/9/05.
- **SB661.** Relates to juvenile proceedings and multidisciplinary teams. Passed Senate 3/22/05. Passed House with title amendment 4/9/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB674.** Relates to textbook sales at public institutions of higher education (textbook bundling). Passed Senate 3/28/05. Passed House with amendment 4/8/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB675.** Allows county boards to enter into lease-purchase agreements for school facilities. Passed Senate 3/30/05. Referred to House Government Organization, then House Finance 3/31/05.
- **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. Referred to Senate Education, then Finance 3/21/05.
- **SB740.** Relates to conducting inventory of technology infrastructure. *See BILLABSTRACT on page 14*

BILL ABSTRACT

continued from page 13

structure in state; other provisions. Passed Senate 3/30/05. Referred to House Industry and Labor, Economic Development and Small Business Committee (House Industry and Labor), then House Finance 3/31/05.

- **SB741.** Exempts farming equipment and livestock from personal property tax (commercial farmers). Passed Senate 3/28/05. Passed House with amendment 4/8/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB744.** Clarifies criteria for employee to sustain lawsuit for intentional injury (Workers Compensation). Passed Senate 3/28/05. Passed House 4/7/05. Legislative action complete.
- **SB750.** Relates to Regional Education Service Agency Funding. Passed Senate 3/30/05. House Education approved 4/6/05. Committed to Finance on 2nd reading 4/6/05.

House Education Bills

- **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.
- **HB2141.** Prohibits persons from soliciting contributions on public highways. Passed House 3/28/05. Referred to Senate Judiciary 3/29/05.
- **HB2163.** Eliminates the “set-off” against Unemployment Compensation benefits for persons receiving Social Security benefits. Passed House 3/30/05. Passed Senate 4/9/05. Legislative action complete.
- **HB2174.** Develops a procedure to notify licensed professionals who are mandated to report child abuse/neglect of the disposition of the investigation into the report. Passed House 3/3/05. Passed Senate 4/5/05. Legislative Action Completed. Referred to Governor 4/12/05.
- **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. Approved by Governor 2/25/05.
- **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 Committee (Senate Government Organization), then Senate Judiciary 2/22/05.
- **HB2334.** Relates to limiting child out-of-state placements. Passed House 3/30/05. Passed Senate with amendment 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
- **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 approved 3/7/05. Passed Senate 4/5/05. Legislative Action Completed. Referred to Governor 4/12/05.
- **HB2365.** Prohibits county board members from acting individually or singularly unless authorized by law. 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 3/25/05.

- **HB2466.** Removes some obsolete Code references from statute; other provisions. House approved 3/7/03. Passed Senate with amended title 4/6/05. House concurred, passed bill 4/7/05. Legislative action complete. Referred to Governor 4/14/05.
- **HB2525.** Eliminates requirement that West Virginia Department of Education (WVDE) conduct independent evaluation of effectiveness of character education programs, including Responsible Students Program (RSP). Passed House 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. Passed House 3/11/05. Passed Senate 4/6/05. Legislative action complete. Referred to Governor 4/12/05.
- **HB2528.** Relates to alternative programs for the education of teachers. (These provisions also are included in SB720.) Passed House 3/29/05. Passed Senate with amendment 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
- **HB2570.** Requires banking institutions to post bond/other security for the deposit of county, municipality or county board education funds. Passed House 3/25/04. Passed Senate with amendment 4/5/05. House concurred, passed bill 4/7/05. Legislative action complete. Referred to Governor 4/14/05.
- **HB2578.** Increases school aid formula net enrollment limits for professional and school service personnel. Passed House 3/28/05. Passed Senate with amended title 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
- **HB2603.** Relates to reimbursement of tuition, registration and other required fees for course work completed by teachers. Passed House 3/28/05. Senate Education approved 3/31/05. Referred to Senate Finance 4/1/05.
- **HB2777.** Makes technical changes concerning High-Tech Research Zones, Parks and Technology Centers/tax incentives. House approved 3/28/05. Passed Senate with amended title 4/6/05. House concurred in Senate amend with amend 4/9/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **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. Passed House 3/21/05. Passed Senate 3/24/05. (This bill was amended extensively by the Senate.) Referred to governor 3/31/05. Approved by Governor 4/7/05.
- **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. House tabled on 2nd Reading, Special Calendar 3/30/05.
- **HB2802.** Updates provisions pertaining to Commercial Driver’s Licenses to conform with federal law. Passed House 3/28/05. Passed Senate 4/9/05. Legislative action complete.
- **HB2809.** Prohibits public contracts with vendors unless vendors can demonstrate that they offer health care insurance to their employees and pay at least 75% of the cost of that insur-

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- ance. House Tabled on 2nd Reading, Special Calendar 3/31/05.
- **HB2812.** Extends the time for the Preston County Board of Education to meet as a levying body for the purpose of presenting a special levy election. Passed House 3/25/05. Passed Senate with amended title 4/8/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **HB2816.** Creates the “West Virginia Healthy Act of 2005.” Passed House 3/28/05. Passed Senate with amended title 4/8/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **HB2837.** Prescribes a personal finance instruction in secondary schools. House Education approved 3/15/05. Passed House 3/21/05. Passed Senate with amended title 4/6/05. House concurred, passed bill 4/7/05. Legislative action complete. Referred to Governor 4/14/05.
 - **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. Passed House 3/30/05. Referred to Senate Education, then House Finance 3/31/05. On 2nd reading to Finance 4/7/05.
 - **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. Passed Senate with amendments 4/8/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **HB2877.** Provides procedure for removal of county, district or municipal officers. Passed House 3/30/05. Referred to Senate Judiciary 3/31/05. Returned to Calendar by Rules Committee 4/9/05.
 - **HB2885.** Relates to tuberculosis testing, control, treatment and commitment. Passed House 3/23/05. Passed Senate 4/9/05. Legislative action complete.
 - **HB2891.** Relates to government reorganization. Passed House 3/30/05. Passed Senate with amended title 4/8/05. House concurred in Senate amendment with amendment 4/9/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
 - **HB2963.** Clarifies the allowance of excess levy elections at primary elections and to remove language which conflicts with state constitution §10-11-et. seq. Passed House 3/30/05. Referred to Senate Judiciary 3/31/05. Returned to calendar by Rules Committee 4/9/05.
 - **HB2977.** Relates to authorizing school-level implementation of student uniform policies. House Education approved 3/17/05. Referred to House Judiciary 3/18/05.
 - **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. Passed Senate with title amendment 4/9/05. House concurred in Senate amend with amend, passed 4/9/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
 - **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. Passed Senate 4/6/05. Legislative action complete. Referred to Governor 4/12/05.
 - **HB3018.** Relates to designation of Mountaineer Challenge Academy as a special alternative education program. Passed House 3/21/05. Passed Senate with amended title 4/8/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **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. Passed Senate with amendment 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **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 (RESAs) on school improvement. 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. On 3rd reading 4/9/05.
 - **HB3152.** Clarifies that the state Board of Risk and Insurance Management is not to provide insurance for every property, activity or responsibility of county boards. Passed House 3/28/05. Passed Senate with amendment 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **HB3163.** Prohibits colleges from requiring students to purchase bundled textbook packages. House Education approved 3/24/05. Removed from Consent Calendar by request 3/29/05. Tabled 3rd Reading, Special Calendar 4/01/05.
 - **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.

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Concurrent Resolutions

Senate

- Senate Concurrent Resolution 3 – Requesting Joint Committee on Government and Finance study public school dress code and use of uniforms. Resolution introduced 2/10/05.
- **SCR11.** Requesting Joint Committee on Government and Finance study protecting health and safety of student athletes. Resolution introduced 2/10/05.
- **SCR20.** Recognizing importance of increasing funding to special five-year demonstration professional development school projects. Resolution introduced 2/21/05.
- **SCR21.** Recognizing need to increase resources and make changes to eliminate racial and ethnic health disparities. Resolution introduced 2/21/05.
- **SCR28.** Requesting West Virginia Board of Education (WVBE) to establish position to coordinate, oversee and advocate for school libraries. Resolution introduced 2/25/05.
- **SCR29.** Requesting Joint Committee on Government and Finance continue Legislative Task Force on Juvenile Foster Care, Detention and Placement. Referred to House 4/1/05.
- **SCR31.** Requesting Joint Committee on Government and Finance study strengthening families economically to help at-risk children. Resolution introduced 2/28/05.
- **SCR33.** Requesting Joint Committee on Government and Finance study mental health services for adolescents to reduce suicide and delinquency rates. Referred to House 4/1/05.
- **SCR35.** Requesting Joint Committee on Government and Finance direct Legislative Oversight Commission on Health and Human Resources Accountability study state obesity epidemic. Resolution introduced 3/4/05.
- **SCR36.** Requesting Joint Committee on Government and Finance direct Legislative Oversight Commission on Health and Human Resources Accountability study home- or community based long-term support programs and services for disabled persons. Resolution introduced 3/4/05.
- **SCR37.** Requesting Joint Committee on Government and Finance direct Legislative Oversight Commission on Health and Human Resources Accountability study providing citizens of state with comprehensive, quality and affordable health care. Resolution introduced 3/7/05.
- **SCR43.** Requesting Joint Committee on Government and Finance study expansion of in-home family education programs. Resolution introduced 3/10/05.
- **SCR49.** Requesting Joint Committee on Government and Finance study alternatives to out-of-state placement of children. Resolution introduced 3/14/05.
- **SCR65.** Designating month of December, 2005, Legislators Back to School Month. Resolution introduced 3/24/05. Adopted 4/9/05.
- **SCR83.** Requesting Joint Committee on Government and Finance study licensing athletic trainers. Referred to House Government Organization Committee on 4/6/05.

Concurrent Resolutions

House

- **House Concurrent Resolution 8.** Requesting that the Joint Committee on Government and Finance continue the Legislative Task Force on Juvenile Foster Care, Detention and Placement as the Juvenile Task Force. Resolution introduced 2/16/05.
- **HCR11.** Requesting that the Joint Committee on Government and Finance study how strengthening families economically can help at-risk children and youth. Resolution introduced 2/17/05.
- **HCR15.** Requesting the Joint Committee On Government and Finance study the current status of mental health services for adolescents and young adults to reduce suicide rates and rates of delinquency. Resolution introduced 2/22/05.
- **HCR19.** Requesting the Joint Committee on Government and Finance study the possible expansion of in-home family education programs (Early Parent Education). Referred to Senate 4/5/05. Adopted 4/6/05.
- **HCR21.** Requesting West Virginia Department of Education (WVDE) to create a position in the department to coordinate, oversee and advocate for public school libraries. Referred to Senate 3/31/05. Adopted 4/7/05.
- **HCR28.** Requesting the Joint Committee on Government and Finance to direct the Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA) to study the obesity epidemic in West Virginia. Bill introduced. Resolution introduced 3/4/05.
- **HCR29.** Requesting the Joint Committee on Government and Finance to direct the Legislative Oversight Commission on Health and Human Resources Accountability (LOCHHRA) to study the establishment of home or community based longterm support programs for disabled. Resolution introduced 3/4/05.
- **HCR31.** Recognizing the importance of increasing funding to the special five-year demonstration professional development school project. Referred to Senate 3/28/05. Pending Senate 4/7/05.
- **HCR47.** Recommending that West Virginia's national leaders oppose the educational budget cuts proposed by President George W. Bush. Resolution introduced 3/15/05.
- **HCR68.** Requesting the Joint Committee on Government and Finance study the need for housing allowances by teachers and school service personnel living in growth areas. Resolution introduced 3/25/05.
- **HCR69.** Recognizing the importance of the Health Sciences and Technology Academy (HSTA) and its significant contribution to African American and under represented high school students. Resolution introduced 3/28/05. Referred to Senate 4/5/05. Adopted 4/8/05.
- **HCR80.** Requesting the Joint Committee on Government and Finance to conduct a study of the need to develop and implement a statewide emergency response to school shootings. Resolution introduced 4/1/05.
- **HCR83.** Requesting the Secondary School Activities Commission to consider a rule amendment to provide at least two classes of competition in the end-of-school tournaments. Resolution introduced 4/4/05. House Education approved 4/6/05. Pending Senate Education 4/9/05.

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- **HCR84.** Requesting the Joint Committee on Government and Finance to make a study on education proposals of the West Virginia Department of Education entitled: West Virginia ACHIEVES (5-year plan). Resolution introduced 4/4/05. House Education approved 4/6/05. Pending Senate Education 4/9/05.
- **HCR85.** Requesting the Joint Committee on Government and Finance to study costs and benefits of full time in-school alternative education programs. Resolution introduced 4/4/05. House Education approved 4/6/05. Pending Senate Education 4/8/05.

EDUCATION-RELATED

Senate

- **SB31.** Requires Chief Technology Officer to maintain cross index of forms used by state agencies. Passed Senate 3/22/05. Referred to House Government Organization 3/23/05.
- **SB101.** Allows county commission or municipality to request traffic control signal be used as flashing signal. Passed Senate 3/4/05. Referred to House Roads and Transportation Committee, then House Finance 3/7/05. Committed to House Judiciary on 2nd reading 4/6/05.
- **SB147.** Limits purchase of substances used in production of methamphetamine. Passed Senate 3/22/05. Passed House with amendment 4/9/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB226.** Relates to cross-reporting when abuse or neglect of individuals or animals is suspected. Passed Senate 3/9/05. Passed House 4/9/05. Legislative action complete.
- **SB239.** Creates Flood Protective Planning Act. Passed Senate 3/24/05. Referred to House Government Organization, then House Finance 3/25/05.
- **SB240.** Grants state employees paid leave for organ donation. Passed Senate 3/30/05. Passed House 4/7/05. Legislative action complete.
- **SB245.** Relates to regulating elections. Passed Senate 3/29/05. Referred to House Judiciary 3/30/05. Recommitted to House Judiciary on 2nd reading 4/7/05.
- **SB268.** Relates to underage possession of beer and liquor; penalties. Passed Senate 3/4/05. Passed House with amendment 4/9/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB348.** Clarifies when audits are required of state funds or grants (does not apply to agencies of government); penalties. Passed Senate 3/29/05. Passed House with amendment 4/9/05. Senate concurred in House amendment as amended, passed bill 4/9/05. House concurred in Senate amendment, passed bill 4/9/05. Legislative action complete.
- **SB414.** Relates to child passenger safety and booster seats. Passed Senate 3/25/05. Passed House 4/7/05. Legislative action complete.
- **SB417.** Provides for organization and joint ownership of joint development entities by municipalities and certain authorities. Passed Senate 3/30/05. Passed House 4/4/05. Legislative Action Completed. Referred to Governor 4/13/05.
- **SB442.** Relates generally to authorizing table games at licensed horse and dog racetracks. Passed Senate 3/28/05. Referred to House Judiciary, then House Finance 3/29/05.
- **SB444.** Establishes offense of careless driving. Passed Senate 3/28/05. Referred to House Roads and Transportation, then House Judiciary 3/28/05. Committed to House Judiciary on 2nd reading 4/6/05.
- **SB452.** Continues Board of Risk and Insurance Management (BRIM). Passed Senate 3/8/05. Passed House with amendment 4/8/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB487.** Authorizes use of ballot-marking accessible voting systems. Passed Senate 3/28/05. Referred to House Judiciary Committee 3/29/05.
- **SB492.** Relates to claims against the state. Passed Senate 3/24/05. Passed House 4/8/05. Legislative action complete.
- **SB542.** Relates to venue for suits against the state involving motor vehicle accidents. Passed Senate 3/30/05. Referred to House Judiciary, then House Finance 3/31/05.
- **SB558.** Relates to management and investment of public funds. Passed Senate 3/28/05. Passed House 4/9/05. Legislative action complete.
- **SB582.** Grants concurrent jurisdiction to family court and circuit courts to set support in abuse/neglect cases. Passed Senate 3/22/05. Passed House with amendment 4/7/05. Senate refused to concur; requested House concur 4/9/05.
- **SB583.** Relates to appealing orders from family court to circuit court. Passed Senate 3/22/05. Passed House with amendment 4/8/05. Senate adopted conference report, passed bill 4/9/05. House adopted conference report, passed bill 4/9/05. Legislative action complete.
- **SB584.** Allows the state Bureau for Child Support Enforcement to enter orders for modification of child support amounts. Passed Senate 3/22/05. Passed House with amendment 4/8/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB587.** Relates to appointment of counsel in abuse and neglect cases. Passed Senate 3/30/05. Passed House with amendment 4/9/05. Senate concurred in House amendment as amended 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
- **SB588.** Relates to cruelty to animals and intervention program for certain youths. Passed Senate 3/29/05. Passed House with amendment 4/8/05. Senate concurred, passed bill 4/9/05. Legislative action complete.
- **SB594.** Authorizes county commissions to adopt ordinances to reduce false fire alarms. Passed Senate 3/28/05. Referred to House Political Subdivisions Committee (House Political Subdivisions), then House Judiciary 3/28/05.
- **SB638.** Relates to filing campaign reports in a timely manner. Passed Senate 3/29/05. Referred to House Judiciary 3/29/05.
- **SB639.** Defines "electronic postmark." Passed Senate 3/29/05. Passed House with amendment 4/7/05. Senate concurred, passed bill 4/8/05. Legislative action complete.
- **SB641.** Corrects definitions applicable to assessment of real property and Homestead Exemption. Passed Senate 3/29/05. Referred to House Finance 4/4/05.

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House

- **HB2102.** Makes tongue-splitting a crime unless performed by a licensed physician. Passed House 2/16/05. Referred to Senate Health and Human Resources Committee, then Senate Judiciary Committee 2/17/05.
 - **HB2106.** Imposes a lien and recovery for unpaid child support on the proceeds due a child support debtor from a settlement, judgment or award. Passed House 3/2/05. Referred to Senate Judiciary 3/3/05.
 - **HB2150.** Expands the possible venues where a child neglect/abuse petition may be filed. Passed House 3/11/05. Passed Senate with amendment 4/6/05. House concurred, passed bill 4/8/05. Legislative action complete. Referred to Governor 4/14/05.
 - **HB2244.** Makes the state's criminal and penalty laws apply to use/display of beer/alcoholic beverages in motor vehicles conform to federal law. Passed House 3/7/05. Referred to Senate Judiciary, then Senate Finance 3/8/05. On 2nd reading to Finance 4/6/05.
 - **HB2271.** Relates to payment of expert fees in child abuse/neglect cases. Passed House 3/11/05. Passed Senate 4/9/05. Legislative action complete.
 - **HB2229.** Provides for the temporary detention of juvenile perpetrators of domestic violence. Passed House 3/22/05. Passed Senate 4/9/05. Legislative action complete.
 - **HB2492.** Provides a mechanism for funding teen court programs. Passed House 3/28/05. Passed Senate 3/29/05 (no committee reference(s); constitutional rule suspended). House concurred in Senate amendment with amend, passed House 4/1/05. Senate refused to concur, request House to concur 4/5/05. House adopted conference report, passed bill 4/9/05. Senate adopted conference report, passed bill 4/9/05. Legislative action complete.
 - **HB2546.** Relates to underage possession of nonintoxicating beer and alcohol. Tabled on Third Reading 3/31/05.
 - **HB2607.** Expands newborn screening by adding sickle cell anemia/adrenal hyperplasia. Passed House 3/8/05. Referred to Senate Health and Human Resources, then Senate Finance 3/9/05.
 - **HB2661.** Prohibits sale of candy or fruit-flavored cigarettes. House tabled on 2nd Reading, Special Calendar 3/31/05.
 - **HB2781.** Relates to annexation of unincorporated "territory." Passed House 3/30/05. Referred to Senate Government Organization, then Senate Judiciary 3/31/05.
 - **HB2815.** Requires use of an appropriate child passenger restraint device or booster seat until the child is at least age six or weighs at least 60 pounds. House tabled on 3rd Reading, Special Calendar 3/31/05.
 - **HB2950.** Relates to requiring a paper copy of a voter's votes when using an electronic system to vote if an election is contested or for a random count of precincts. Passed House 3/29/05. Passed Senate 4/4/05 Title amendment adopted. Senate request House to concur 4/4/05. House concurred in Senate amend with amend, passed bill 4/7/05. Senate concurred, passed bill 4/8/05. Legislative action complete.
 - **HB2958.** Continues the Public Employees Insurance Agency Finance Board. Passed House 3/14/05. Passed Senate 4/5/05. Senate requests House to concur 4/5/05. House concurred,
- passed bill 4/7/05. Legislative action complete. Referred to Governor 4/14/05.
- **HB2981.** Relates to claims against the state. Passed House 3/25/05. Passed Senate 4/5/05. Legislative Action Completed. Referred to Governor 4/12/05.
 - **HB2992.** Adds operation of clandestine drug labs to the crime of wanton endangerment involving "destructive devices." Passed House 3/28/05. Referred to Senate Judiciary Committee 3/29/05.
 - **HB3002.** Removes the 30-day deadline for submitting designation to be eligible to vote in Primary Elections. Passed House 3/28/05. Passed Senate with amended title 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **HB3049.** Creates a new crime of wanton endangerment involving the use of fire; imposes criminal penalties. Passed House 3/30/05. Passed Senate with amendment 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **HB3094.** Relates to child support and enforcement. Passed House 3/30/05. Passed Senate with amended title 4/9/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **HB3216.** Describes the scope/limitations of legislative immunity. Passed House 3/30/05. Referred to Senate Judiciary 3/31/05. Removed from calendar by Rules Committee 4/9/05.
 - **HB3281.** Relates to making it a crime to alter, destroy, or tamper with computer equipment containing voter registration information. Passed House 3/30/05. Passed Senate with amended title 4/8/05. House concurred, passed bill 4/9/05. Legislative action complete.
 - **HB3282.** Relates to taking "upskirting" pictures of a nonconsenting individual in public and private places. Passed House 3/30/05. Referred to Senate Judiciary Committee 3/31/05.
 - **HB3340.** Excludes certain employment-related expenses from the definition of gross income for purposes of determining child support. Passed House 3/30/05. Referred to Senate Judiciary Committee 3/31/05. Returned to calendar by Rules Committee 4/9/05.
 - **HB3355.** Relates to Unemployment Compensation generally. Passed House 3/30/05. Referred to Senate Judiciary, then Senate Finance 3/31/05. On 2nd reading to Senate Finance 4/6/05.
- *Compiled by Shirley Davidson, West Virginia School Boards Association administrative assistant.*

Wisdom

“If any man seeks for greatness, let him forget greatness and ask for truth, and he will find truth.”

— *Horace Mann.*

Fat ‘possum

Every West Virginia legislative session has its proverbial “fat ‘possum,” AKA a bill laden with a section or sections unfamiliar to members who vote on the measure.

By far, this year’s fat ‘possum dealt with making English the official language of West Virginia. The so-called “English-only” amendment was slipped into an otherwise innocuous bill during the session’s hectic final hours.

U.S. English Inc., a Washington, D.C., advocacy group, was behind the effort to make West Virginia the 28th state to declare English its only recognized language in official documents.

Immediately after it became known the legislation was adopted, based on an Associated Press story, the ‘English-only’ bill was the subject of considerable national news coverage, including an article in *The New York Times*.

Ironically, the lead bill sponsor, Sen. Larry Edgell, D-Wetzel, seemingly disavowed the bill’s passage, describing a trip to Florida where his daughter teaches in a classroom where several students speak Spanish, according to various news accounts.

The U.S. English group sought to have the legislation amended into another bill to bypass House Judiciary Committee Chairman Jon Amores, D-Kanawha, who opposed the legislation, saying it makes the state appear to oppose diversity. Amores is the son of Filipino immigrants.

By the time news about the bill made its rounds, various departments and divisions of state government, to no one’s great surprise, said almost all their official documents were in English — except if the federal government were to require another language version.

Incidentally, Gov. Joe Manchin III, is basing his veto of the bill on a provision of law saying a measure adopted by the Legislature can’t embrace more than one “object” (or topic)—a criticism often made of omnibus bills, especially educational omnibus bills.

(In the case of omnibus bills, legislators say the bill title is general enough to encompass all the ‘objects’ which “generally relate” to public education. In case of the English-only bill, two dissimilar subjects were addressed despite *any* bill title.)

Sen. Majority Whip Billy Wayne Bailey, D-Wyoming, successfully amended the ‘English-only’ provision into a bill relating to expanding the number of members on municipal parks and recreation boards.

By the way, news media accounts point out that less than 3 percent of state residents speak a language other than English.

\$97,000 pension

The *Charleston Daily Mail*, in an article late last week, reported that retiring state superintendent David Stewart will receive a \$97,000 annual pension.

Stewart, quoted in *The Daily Mail*, said “I wish everyone was in the same position as I am. Remember, I’ve worked for 40 years.”

According to the newspaper, Stewart, who has been state superintendent for five years, will receive a \$8,076-a-month retirement check.

The figure was based on his five highest-paying years of the last 15. Those five were during the time he was state superintendent for which he received a \$146,100 salary.

Two percent of that average salary was multiplied by total years

of service.

Stewart has 33 years of service but his 445 unused sick-leave days increased that figure to 40 years for retirement purposes, according to *The Daily Mail*.

\$65 million ‘unspent’

Senate and House budget conferees agreed on April 15 to leave about \$65 million unspent in the state’s general revenue budget. Legislators defended their action, saying that Gov. Joe Manchin III has asked lawmakers to put \$77.5 million into a special “reserve fund” under control of the executive branch.

The budget conferees instead agreed not to designate the money to any area at all, and to save \$12.5 million less than requested.

Several legislators criticized the move, including Senate Health and Human Resources Chairman Roman W. Prezioso, D-Marion, who is quoted in *The Charleston Gazette* as saying there is an expected \$156 million gap in state Medicaid funding.

Prezioso said because of federal matching rates, about \$38 million state funds would erase the shortfall.

Republican lawmakers also criticized the action.

This year’s state budget is \$9.3 billion.

ADMINISTRATIVE PERSPECTIVE

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of the Legislative process, I remembered that the first education bill to pass this session was **HB2286**. It allowed students to play taps at military funerals. I guess it takes really important bills a little longer to make it through quickly.

—Dean is West Virginia Association of School Administrators Executive Director.



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Looking Back

The March 15, 1995 issue of *The Legislature* reported on passage of the state's inaugural safe-schools legislation in **House Bill 2073**. West Virginia School Boards Association Executive Director Howard M. O'Cull wrote, "The safe-schools bill is a significant piece of legislation because it cemented support of several (education group) constituencies, including teachers and other lobbies, who found it to be the central focus of session activity and who, not be left out, wanted a piece of the action, especially in terms of representing their memberships...."

O'Cull also reported on a "Legislature (that) found itself with several new members (who were) more fiscally and socially conservative and an increased Republican contingency..."

He said one example of the new members' impact on legislation – and the Legislature – was the House of Delegates effort to abolish the state Women's Commission and other conservative votes.

O'Cull concluded, "Indeed, the legislative environment was, by definition, skewed to fiscal conservatism and incrementalism. (Most) public education bills certainly had that flavor."

He cited examples of the failure of a school aid formula bill and the fact the session, except for the safe-schools legislation, was "slow" for public education, pointing out that education legislation was overshadowed by Workers Compensation reform, increasing Medicaid costs, and higher education reform, which is a seemingly perennial legislative issue.

The Legislature reported that county board members would

receive Public Employees Insurance coverage, and that a bill was adopted relating to the use of pesticides in school.

Among the Concurrent Resolutions adopted, the Legislature committed itself to a study of rural school system needs and began what would become a series of studies – and eventual legislation – relating to school air quality.

Additionally, *The Legislature* reported that legislation placing the School Building Authority of West Virginia under the state's "sunset law," meaning the agency would face periodic reviews as to effectiveness, was seen as a move to make the agency "more accountable and responsive," especially among SBA critics who had argued for such a move for years.

SBA officials, however, said placing the Authority under the state's sunset legislation "spoke well of the SBA's future."

In the déjà vu corner, the Legislature resolved, through passage of a resolution, to study the Board of Risk and Insurance Management and the coverage it affords to various state and local agencies.

Based on a recent state Supreme Court of Appeals case, the Legislature adopted legislation in the 2005 regular session to itemize that BRIM isn't responsible for covering all activities of county boards of education.

Agency officials maintain that coverage county boards receive won't change.

— *From The Legislature, March 15, 1995.*

GUEST PERSPECTIVE

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South Dakota, a school is designated persistently dangerous if it has multiple violent criminal offenses for two or more consecutive years, any time of day or night, on school property or during school-sponsored events.

State governments are not moving very quickly to align themselves with No Child Left Behind. And the allegedly harsh punishments in the law, such as closing low-performing schools in favor of charters or having the state take them over, have mostly been ignored in favor of lesser penalties similar to what districts have done with troubled schools for many years.

In Michigan, for instance, despite having 162 schools that are supposed to be restructured because of little or no test score improvement, no schools were closed and reopened as charters, and the state decided not to take over any schools.

The same thing is happening with No Child Left Behind's insistence that all teachers achieve "highly qualified" status by 2006. Kate Walsh and Emma Snyder of the National Council on Teacher Quality have put out a new "Searching the Attic" report. They say the states are quietly defining themselves into compliance while leaving many teachers no more equipped for their jobs than before.

(See Last Word on page 21.)

They congratulate Colorado for insisting that veteran teachers either pass a test in the subject they are teaching or complete coursework that is nearly the equivalent of a college major. Oregon has set a similar standard, although only for its newer teachers, and Alabama, Pennsylvania, Kansas, Maryland and Hawaii are requir-

ing that all teachers hold the equivalent of at least a college minor in the subjects they teach.

But most of the efforts in the other states to make teachers highly qualified are "half-hearted, achieving a gossamer-like quality whereby elaborately crafted state plans reveal themselves to be little more than an elaborate restatement of the status quo," Walsh and Snyder said. As a worst-case example, they note that seven states grant "highly qualified teacher status by achieving what all but a tiny fraction of teachers routinely achieve: a satisfactory mark on their annual evaluations."

So those who worry that our schools are being crushed under the heel of the No Child Left Behind storm troopers should relax. And those, like me, who think the law's bipartisan supporters in Congress had mostly the right idea, should remember that no matter what we learned in eighth grade civics class, passing a bill in Congress often doesn't mean much.

No Child Left Behind has given states and school districts more legal tools, and more money, to help more children learn, but those new rules and programs are likely to gather dust in the basement, like most of the tools in my house, unless we repeatedly insist to the people in charge that they be used.

Otherwise, education in America is going to proceed pretty much like it has over the last few decades, getting a little better but leaving many children behind, in both red states and blue.

— *Mathews is staff writer for The Washington Post. This article was written exclusively for The Legislature. Mathews was the banquet speaker at the West Virginia School Boards Association's 50th Anniversary Conference in September 2004.*

States not urgently addressing low academic standards for teachers

By Kate Walsh

In fall of 2004, the National Council on Teacher Quality released the second in a series of reports, *Searching the Attic: How States are Responding to the Nation's Goal of Placing a Highly Qualified Teacher in Every Classroom* (available at www.nctq.org), examining states' progress toward meeting the new federal requirement that all students are taught by a 'highly qualified teacher' by the end of the 2005-2006 school year.

Without a doubt, this new requirement has led to some discomfort nationwide. States are no longer able to independently decide what constitutes a qualified teacher without also answering to a new federal standard that specifically addresses teachers' subject matter knowledge. Congress tackled this particular feature of teacher preparation because, for too long, states have spelled out what teachers need to be able *to do*, but not what they should *know*.

For example, when No Child Left Behind was signed into law in early 2002, only 24 states (West Virginia was not among them) required their high school teachers to earn a major in the subject they intended to teach. In the few instances where states have asked practicing teachers to take some kind of test (Pennsylvania and Massachusetts most recently), the failure rate has been embarrassingly high.

Specifically, this report examines what states are requiring of their *practicing* teachers in order to comply with the law. While most of the nation's current teachers were certified before No Child Left Behind was enacted in 2001, states nevertheless must retrofit their old definitions of teacher quality to the federal law's new expectations on subject-matter training, in order to accomplish the national goal of a highly qualified teacher in every classroom—not just the classrooms of newly hired teachers.

An important question is whether the federal law is actually helping states to make any genuine strides toward improving teacher quality. While the law appears to lay strong groundwork for better academic preparation of *new* teachers, there's sufficient evidence to suggest that the law will ultimately fail where veteran teachers are concerned, and that it will be brought down under the burden of its own internal compromises and ambiguity, and by states' unwillingness to cede control no matter how beneficial the end goal.

Extending from states' discomfort, there is considerable confusion over what the law would have states do or how strictly the U.S. Department of Education will enforce the law. Accordingly, there is gamesmanship from every corner. States seem committed to declaring longtime veterans 'highly qualified' regardless of their qualifications, for fear of antagonizing hard-working, loyal teachers.

Many states insist their certification systems are up to the job, despite what the feds think. In some instances this is because they have commendably high academic standards, but in others the standards are thoroughly inadequate. Regardless, what holds true is that states are not particularly interested in addressing teacher quality problems as a result of the flawed regulations of the past, those

routes that practicing teachers took into the profession.

This is where NCTQ believes West Virginia falls short in evaluating the content knowledge of its teachers. We gave the state an 'F' grade in our evaluation of its standards for practicing teachers because the state system is unlikely to identify teachers who are instructionally weak for lack of subject matter knowledge.

Originally, West Virginia drafted a point system to serve as its HOUSSE plan but scrapped it in favor of using the state's existing teacher evaluation system. While the point system was not particularly rigorous, the performance evaluation has even less capacity to identify teachers struggling with content knowledge. Of the seven indicators used to evaluate teachers on this instrument, only one indicator directly references content knowledge, making it quite possible to earn a satisfactory evaluation while doing poorly on only this one indicator.

More to the point, evaluations are not the best vehicle for assessing subject matter knowledge. It's hard to evaluate someone's knowledge simply by observing them teaching for a single period or even a few periods. The evaluator (usually the principal) may not know the subject well enough to form an accurate judgment or the lesson being observed may not happen to require the teacher to exhibit much expertise.

With these challenges in mind, we concluded that West Virginia schools will experience all the negatives associated with implementing NCLB, but in the end will realize none of the benefits that might be derived, that is, helping teachers who are weak become more effective.

By no means is West Virginia an exception. In our report, only five states earned a 'B' grade or better, and only one earned an 'A.'

On the whole, states' efforts to strengthen the quality of their veteran teachers often appear half-hearted. Some of them have a gossamer-like quality in which elaborately crafted plans reveal themselves on closer inspection to be little more than elaborate restatements of the status quo. Maine, for example, has developed an extremely elaborate rubric of options for a teacher to consult when meeting the highly qualified requirements, but when it comes time to put this rubric to work, teachers meet the standards by spending huge amounts of time documenting a series of insubstantial activities including attending conferences, committee work or mentoring.

While high levels of school involvement are essential, just because a calculus teacher participates in these activities does not tell us if she actually *knows* math. Of course, being a good teacher requires more than just subject matter knowledge, but it is clearly impossible to be effective without that foundation.

From our research, it is clear that a large percentage of states do not appear to share the urgency of the U.S. Congress to address the low academic standards for American teachers, arguably the least rigorous among all developed nations.

—Kate Walsh is President of the National Council on Teacher Quality, a nonpartisan, nonprofit organization whose goal is to restructure the teaching profession.

Sound Bites

“I think it’s a little bit hypocritical to laud Sen. Byrd for doing his job to bring money back to the state and yet criticizing a state legislator for doing the exact same thing...” –House Speaker Bob Kiss, D-Raleigh, discussing a recent news article relating to House Finance Committee Chairman Harold Michael’s efforts to procure money for counties in his Eastern Panhandle legislative district. Michael, D-Hardy, has been House Finance Chairman for nine years.

“The promise is on empty, and most West Virginians are catching on.” – Challenge West Virginia Executive Director Linda Martin, discussing what she called “failed” school consolidation “successes.” –Martin made those remarks in reference to Gov. Joe Manchin’s busing proposal that died in the Senate. She said her small schools advocacy group will work toward another similar proposal next year.

“I’m not saying that these things aren’t a good thing. They aren’t necessarily needed in Code. They are basic principles of humanity that should be taught at home and in other venues.” –Sen. John Unger, D-Berkeley, discussing remarks by Sen. Clark Barnes, R-Randolph, concerning character education. The bill they were addressing, **House Bill 2525**, would have stricken recent legislation mandating that character education be taught in the public schools. Barnes argued that things such as honesty, character, respect and the like should be taught in school. The bill died on a 5-5 tie vote, meaning the character education provisions remain.

Meanwhile in California . . .

Marshall Fritz, president of the Fresno, Calif., Alliance for the Separation of School & State, recently told supporters that public schools have worked hard to convince children that there are no permanent moral truths.

“Some of these children are now judges, attorneys, and political leaders. Today, all the world can see those chickens came home to roost. American judges insist Terri Schiavo be starved to death in central Florida, while others prosecute a man in south Florida who didn’t feed his cows.”

Many ask, “How could we all feel so helpless even though we know it’s just plain wrong to starve a person to death?” Fritz said the answer is easy when you understand how moral relativism has dominated universities, teacher training, and 92,000 government-run “public” schools.

Fritz said the plain truth is that public schooling has so “anti-educated” two generations of Americans that they stood by helpless as their justice system “went haywire and starved a helpless lady to death.”

The organization’s web site is <http://www.honestedu.org/index.php>.

The Legislature

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