



## Grievance bill may be dead, but issue lives

### Most still agree process needs streamlining

By Jim Wallace

A bill designed to streamline the grievance procedure for teachers and other public employees apparently died on a procedural vote in the Senate this week.

Some people held out hope, while others expressed concern that the bill (**Senate Bill 417**) might be revived before the Legislature's regular session ends March 11.

But even if that particular bill is dead, the issue is not. Labor officials, representatives of public agencies and lawmakers agree that the state's grievance procedure must be revised, even if they don't agree yet on how to do it.

On Wednesday, the Senate Finance Committee sent the bill to the full Senate, where it received its second reading. But a 24-10 vote to have it receive its third and final reading failed to achieve the four-fifths majority needed to suspend the rule requiring it to lay over another day. Because Wednesday was the final day for each chamber to work on its own bills before sending them over to the other chamber, that effectively killed the bill.

All 10 of the senators who voted against the rule suspension are Republicans. Three Republicans – Andy McKenzie of Ohio

County, Clark Barnes of Randolph County and John Yoder of Jefferson County – joined Democrats in voting for it.

Charles Delauder, president of the West Virginia Education Association, said his organization supported the bill totally, but he held out little hope of reviving it during the current session.

"I don't think that that's possible," he said. "There's not a vehicle to do that."

#### Still possible for bill revival this session

However, Judy Hale, president of the West Virginia chapter of the American Federation of Teachers, said labor officials were still talking strategy Thursday, seeking some way to resuscitate the bill.

"There's always hope," she said. "Until the end of the session, sine die, there's always hope. We're working on some things. Maybe we'll be able to revive it."

Sometimes lawmakers find ways to breathe new life into a seemingly dead bill, such as by amending it into a bill that is still pending. The Senate sent the bill back to its Finance Committee Thursday.

House Judiciary Chairman Jon Amores, D-Kanawha, would not rule out the possibility that the House of Delegates might give new life to the bill, but he said Thursday it would be unusual for the  
*See GRIEVANCE on page 4*

## Overview

### STATS

Day of Session:	52
Days Remaining:	8
Bills Introduced:	2,164
(Includes 644 House Carryover Bills)	
Education Bills (WVSBA Count does not include House Carryover Bills):	326

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### QUOTE

*"It's obvious that the solution to this problem would be to have no more floods."* – Del. Brady Paxton, D-Putnam, discussing a bill that would require county boards of education to acquire flood insurance.

## Senate okays central office sharing bill

The state Senate on Wednesday unanimously approved legislation that would "authorize and encourage" county boards of education to share central office administrative services either through agreements with contiguous counties or with Regional Educational Service Agencies (RESAs).

**Senate Bill 620**, which is endorsed by the West Virginia School Boards Association will be placed on the House Education agenda early next week, according to HEC leaders.

A similar proposal was adopted by the Senate last year but died in the House Finance Committee because it was appended to a controversial RESA measure.

This year's bill has no second reference to House Finance nor did it have a second reference in the Senate.

According to WVSBA Executive Director Howard M. O'Cull, Ed.D., the legislation will aid counties in focusing energy and resources on student achievement and it also is a "self-defined efficiency via the board agreements."

# Gov. recognizes board contributions

Gov. Joe Manchin and First Lady Gayle Manchin on Feb. 16 presented the proclamation, below, to WWSBA President Debbie Thompson and school board members from across the state.

## *Proclamation*

**Whereas**, members of county boards of education provide local educational policy and guidance to their respective counties; and,  
**Whereas**, members give of their time, talents efforts and energy to provide direction, making informed decisions that have impact on children and youth, not to mention a county's economic development and general well-being; and,  
**Whereas**, county board members are part of an institution, which has its roots in the earliest colonies in America, predating the republic itself; and,  
**Whereas**, through the years, county boards have evolved in terms of outlook, professionalism, training and development, providing expertise in policy as influenced and tempered by school administrators' information and input; and,  
**Whereas**, county boards are integral to a good statewide system of schools in terms of their focus and commitment to change, economic development and increased effectiveness; and,  
**Whereas**, while there have been calls for regionalizing school systems, county boards provide a valuable link to the public in terms of representation; and,  
**Whereas**, given that control for education rests at the local level, county boards serve as effective conduits for citizen input and community accountability;  
**Now, Therefore**, Be it Resolved that I, Joe Manchin III, Governor of the State of West Virginia, do hereby recognize members of:

### **County Boards of Education**

in the Mountain State and encourage all citizens to recognize the efforts of board members and the significant contributions they make.

**In Witness Whereof**, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

**Done** at the Capitol, City of Charleston, State of West Virginia, this the Sixteenth day of February, in the year of our Lord, Two Thousand Six, and in the One Hundred Forty-third year of the State.

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*Vincit omnia veritas*  
*"Truth conquers all"*

**Joe Manchin III**  
**Governor**  
**Betty Ireland**  
**Secretary of State**



*Gov. Joe Manchin and First Lady Gayle Manchin on Feb. 16 presented West Virginia School Boards Association President Debbie Thompson (left) a proclamation honoring county boards and school board members for their service to public education and the state. Thompson is president of the Pleasants County Board of Education. Photo by Steve Rotsch.*

# Senate approves school funding changes

By Tom Searls  
Charleston Gazette Staff writer

A bill that would force counties to fully assess all property, letting the state school aid formula stop making up for those counties that don't, passed the Senate Wednesday.

Supporters said the bill would make counties fund schools more equally. Detractors said it would just continue an unequal funding process.

The bill (**SB 570**) would give county assessors six years to bring the assessments of all types of property up to 60 percent of appraised value, as mandated by the state constitution.

Lawmakers hired economists from Marshall and West Virginia universities to conduct a two-year study of how the state funds public education and how to level the playing field.

About 25 percent of the cost of operating schools comes from county property taxes. The state school aid formula evens out funding so that all counties get about the same per student.

Of West Virginia's 55 counties, only Summers County assesses residential property at more than 60 percent of its value. Gilmer, Logan, McDowell, Mingo and Wyoming counties assess residen-

tial property at 60 percent.

The lowest residential assessment level in the state is 39 percent in Tyler County, according to Department of Tax and Revenue records.

"We feel that there is underassessment in various parts of the state," said Senate Finance Chairman Walt Helmick, D-Pocahontas.

The state gives about \$60 million a year to counties that underassess property, the bill's supporters pointed out. They say that money could be used to enhance other programs if all property were properly assessed. It could make up for low teacher salaries or other educational expenses.

Under the proposal, after six years the school aid formula would no longer make up for money lost to underassessments, supporters contend. The legislation requires the Tax Department to intervene if counties do not fully assess property six years from now.

"I think it's a very progressive piece of legislation," said Senate Education Chairman Robert Plymale, D-Wayne.

He believes the bill will level the playing field for education funding. "At the end of six years if you were not at 60 percent the state does not fill in the gaps," he said.

See **SCHOOL FUNDING** on page 6

## SEC tones down NCLB resolution

### *Principal's discipline designee bill laid over*

By Jason B. Keeling

On Thursday, the Senate Education Committee established two resolutions to comment on federal education laws as they relate to West Virginia.

The first resolution requests that President Bush and the U.S. Congress "improve the quality of the nation's schools by substantially increasing funding for the No Child Left Behind Act, the Higher Education Act, the Individuals with Disabilities Education Act and other education related programs."

The resolution states that NCLB "has encouraged some needed changes in public education and was initially accompanied with modest increases in federal funding," but that the federal government has decreased NCLB funding by \$73 million, decreased post-secondary education funding by \$166 million, and decreased programs for students with disabilities by \$21 million.

Upon the motion of Sen. Steve Harrison, R-Kanawha, the words "make a serious commitment" were stricken from the resolution. This changed the tone, according to Harrison, who said the Bush administration has made the necessary commitments to improve education across the country.

A number of legislative bodies across the nation have put forth such resolutions, according to Senate Education Chairman Robert Plymale, D-Wayne, who cited Kansas as an example.

The resolution also requests that federal officials offer "waivers, exemptions, or whatever flexibility" necessary relating to NCLB "in any year that federal funding for public elementary and secondary education is decreased to prevent states from spending state and local resources on activities that have not proven effective in raising student achievement."

### **NCLB cost study**

A second resolution originated by the committee requests the Legislature's Joint Committee on Government and Finance study and develop a method of calculating West Virginia's costs relating to the No Child Left Behind Act. The study also would explore "whether or not West Virginia is receiving all of the same flexibilities to its accountability plan that other states have received."

Given that Congress will soon undertake its reauthorization process for NCLB, these resolutions were appropriate, according to Plymale. "It is our feeling that [several] other states have done a cost analysis, and West Virginia should do the same."

Harrison was the only committee member to vote against the resolutions.

### **Other measures**

The committee approved **House Bill 4491**, which would establish the third week of October as "Disability History Week" for the state. As it relates to public schools, the bill encourages disabilities curriculum to be incorporated into instruction during the week.

**House Bill 4625** would add the administrative head of a school or professional personnel designee to the definition of a school "principal," for purposes of granting authority to discipline a student. The bill was laid over by the committee, due to concerns that the definition was too broad.

From a legal standpoint, the definition should require the county school board to grant such authority to anyone acting within the capacity of principal, per the recommendation of the county superintendent, said Sen. Larry Edgell, D-Wetzel.

— Keeling is a public relations consultant and owner of Keeling Strategic Communications in South Charleston.

# GRIEVANCE REFORM

*continued from page 1*

House to do that.

“We would have to find out if there is a desire to pass it and it’s just a procedural thing,” Amores said. “If that’s the case, we might take it up. But if you’re asking me generally, I will tell you generally if a bill dies in the Senate we don’t take it up.”

Martha Dean, executive director of the West Virginia Association of School Administrators, said she thought the bill was dead for the session, but she was wary about the possibility that someone could resurrect it. “I never rest easy until the final bell rings,” she said.

Senate Education Chairman Bob Plymale, D-Wayne, said the Senate Finance Committee’s approval of the bill Wednesday was an effort to keep it from dying this session.

“I think we have to reform our grievance procedures,” he said. “I may not agree with all aspects of the bill, but this is at least moving it further along so we can get something resolved on it.”

Plymale called the current grievance procedure “very cumbersome” and said it should be streamlined, but he thought the Senate bill would do only about half of what is necessary.

Basically, the bill would reduce the four levels of the grievance process to three, although a grievant would still have an option of going four levels. It would also call for binding arbitration to avoid going to court. The costs of the arbitration would be borne one-third by the employee and two-thirds by the employing agency. In addition, hearing examiners would be replaced by administrative law judges.

Labor officials said the bill would shorten the grievance procedure and reduce its costs. Hale said the current process is “so unfair and it’s so costly. Taxpayers are spending millions of dollars over the years that they really shouldn’t have to spend. We’re agreeing as employees to pay part of the cost to get a fair system.”

But others contend that there were too many problems with the bill to be fixed in the last week and a half of the legislative session. For example, without major revisions, the bill would have created technical problems with other sections of state code that were set up based on the current grievance process with four levels. Also, there appeared to be constitutional problems with binding arbitration, and there were questions about how money for arbitration would be collected.

## **Binding arbitration wrong for teachers**

Dean said that binding arbitration would be inappropriate for dealing with disputes involving teachers. Such arbitration is typically used to resolve disputes between two parties to a contract, she said, but West Virginia school law, which defines employees’ rights and school boards’ powers, is not a simple contract. So she said the arbitration process should not be used to resolve such disputes.

Another of her concerns was that the decisions of arbitrators across the state might be inconsistent. The West Virginia School Boards Association has expressed similar concerns, as well as concerns about arbitrators’ lack of knowledge about the state’s school law, their potential ability to order the expenditure of public funds and possible increased costs to both employees and school boards.

However, Dean said she is not opposed to reforming the grievance process, such as cutting down the number of levels.

“I do agree it should be streamlined,” she said. “It should have two steps.”

Amores said he and other delegates have spent a lot of time studying the problems in the grievance procedure. Just because the Senate bill on the subject seems to be dead for this session doesn’t mean that lawmakers will let the issue die, he said.

“Frankly, being a lawyer, I’m less concerned about the speed of the process than I am about the fairness of the process,” Amores said. “So I’ve looked at it and there have been some reform efforts that we’ve tried on the House side but [they were] more attuned to trying to make sure the disputants think they are in a fair process, not necessarily think they’re going to save another month. But I

think the initiatives we’ve had are both – streamlining and trying to introduce fairness into it.”

## **Issue likely to return**

If reform of the grievance process is dead for the current legislative session, it will likely pop up again by next year’s session. Earl Maxwell, director of the West Virginia Education and State Employees Grievance Board, said the next reform bill could come from Gov. Manchin.

“Under the direction of the West Virginia Grievance Board, I was employed as director on Jan. 15 and given the task of creating a proposed revision of the grievance process,” Maxwell said. “We hope to be able to provide that to the governor sometime early next month.”

Restructuring the process has turned out to be more difficult than Maxwell expected when he took the job.

“It is a complicated process,” he said. “It’s very important that it be done right because of the number of people it affects.”

– Wallace is a former government reporter for the Charleston Daily Mail and former news director of West Virginia Public Radio. He now works for TSG Consulting in Charleston and writes for several national and West Virginia publications.

***“Until the end of the session, sine die, there’s always hope. We’re working on some things. Maybe we’ll be able to revive it.”***  
– **Judy Hale, West Virginia chapter president, American Federation of Teachers**



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# House Ed. approves flood insurance bill

## *Resolution creates program to address student suspension problems*

On Thursday afternoon the House Education Committee approved **Senate Bill 635**, which would require county boards of education to procure flood insurance for “each insurable building that it owns” if the building is “within an “identified special flood hazard area and/or 100-year flood plain and has a replacement value that is greater than \$300,000, or if the building has been “damaged in a previous flood and flood insurance is required by the Federal Emergency Management Agency (FEMA).”

County boards also would have to insure against flooding the contents of each building that meets either of those requirements. The buildings and their contents would have to be insured at the maximum amount available through the National Flood Insurance Program or the estimated replacement value of the structures and contents, whichever is less.

The bill was adopted Feb. 17 by the Senate and it does not have a second reference to House Finance, according to House Education Chairman Tom Campbell, D-Greenbrier.

According to West Virginia Department of Education officials, the measure will cost counties collectively \$184,835 in local dollars – a point made by Del. David Perry, D-Fayette.

Joe Panetta, executive director of the Office of School Finance, told House Education members the proposal, which was first discussed last year, would affect 14 county boards and 46 facilities, with an estimated \$16.4 million replacement cost for the uninsured buildings.

As to whether the measure was an “unfunded mandate,” Panetta said one way to look at the proposal is the replacement costs for the facilities in the 14 counties.

County board members may contact WVSBA Executive Director Howard M. O’Cull at [hocull@wvsba.org](mailto:hocull@wvsba.org) for the flood insurance costs for their boards.

In other action this week, the House Education Committee:

- Approved **House Bill 4626** which would allow college students to perform their student-teaching requirement in a private, parochial or church school, or any other school operated by a religious order.

Any “nonpublic cooperating school [must] document that the student teacher’s field-based and clinical experiences include participation and instruction with multicultural, at-risk and exceptional children at each programmatic level for which the student teacher seek certification...”

Beginning this fall, higher education institutions “may provide an alternate student teaching experience in a nonpublic school setting if the institution...has a [WVBE-approved] educator preparation program...[and] the student teacher completes at least one-half of the clinical experience in a public school...[or]...the educator preparation program includes a requirement that any student performing student teaching in a nonpublic school completes at least [200] clock hours of field-

based training in a public school...”

An additional requirement stipulates that the student teacher must complete a course which is a “component of the institution’s State Board of Education approved educator preparation program, that provides to prospective teachers information that is equivalent to the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in West Virginia.”

The course would include several elements, including information about state Board of Education policy and state law governing public education, requirements for federal and state accountability, including the mandatory reporting of child abuse, federal- and state-mandated curriculum and assessment requirements, including multicultural education, safe schools and Student Code of Conduct, and the federal No Child Left Behind Act.

A final course would include “varied approaches for effective instruction for students who are at-risk.” The bill has other provisions.

- Approved **House Bill 4785**, which would allow school service personnel to vote on giving transfer preference to employees from a merged or consolidated

school or school facility.

The vote would be by “secret ballot ...conducted at each school or work site for school service personnel. The supervisor at each school or work site shall convey the results of the election to the [county] superintendent.

“The most senior school service personnel within the closed school or schools has priority in filling any position within his or her classification category. The second-most senior service personnel within the closed school or schools then has priority in filling remaining vacancies and so on until all available positions are filled.”

Current statute regarding transfer preference refers to teachers only.

- OK’d **House Concurrent Resolution 78**, which requests the West Virginia Board of Education establish a pilot program of structured in-school alternatives to enforce the WVBE’s Student Code of Conduct.

The resolution emanated from 2005 interim legislative sessions in which legislators learned that during the 2004-2005 school year 36,923 students, about 13 percent of all enrolled students, were excluded from the classroom at least once for infractions of the Student Code of Conduct. Some 25,474 of these students, or about 9 percent of students enrolled, were given at least one out-of-school suspension and may also have been otherwise excluded from the classroom for other infractions of the Student Code of Conduct.

*See FLOOD INSURANCE on page 6*

## SCHOOL FUNDING

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But detractors believe the bill would continue to make the state's larger, and growing, counties fund a higher amount of smaller counties' costs.

Sen. Clark Barnes, R-Randolph, said property values vary and are shooting up rapidly in the state's Eastern Panhandle. If those counties raise their assessment rates, he said, they'll lose the extra money to other counties.

Currently counties can keep 2 percent of county property tax money, while 98 percent goes into the state school aid formula for the county. The bill would change that split over a few years so that counties could keep 5 percent of property tax revenues for discretionary spending.

The current levels of assessments on residential property for the three fast-growth Eastern Panhandle counties is 48 percent in Morgan County, 52 percent in Berkeley County and 49 percent in Jefferson County. Kanawha County, the state's largest, is at 57 percent, while Cabell and Putnam counties are at 55 percent.

Barnes pointed out if a county like Berkeley raises its assessment rate to 60 percent and grabs an extra \$1 million, it can only keep

\$50,000 of that.

"The vast majority of what they're raising is going to go to the state," he said.

Plymale said the bill would help Eastern Panhandle counties that have trouble paying teachers enough to compete with school systems in surrounding states.

He said it would allow counties that pass school levies not to be punished for pumping additional funds into the system. That money could be used to raise teacher salaries in the border coun-

ties, where other states have lured away experienced West Virginia teachers with higher pay.

Barnes is also concerned the legislation gives the state power over county assessors. Property values have risen so rapidly in the Eastern Panhandle that Barnes said to reassess every three years would leave natives unable to pay the higher taxes.

The bill has a penalty in

it, too. It allows that county commissioners and assessors can be removed from office if property is underassessed.

The review being conducted by the economists is about half completed.

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***The state gives about \$60 million a year to counties that underassess property, which bill supporters say could be used to make up for low teacher salaries or other educational programs.***

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## FLOOD INSURANCE

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This resolution requires selection of four secondary schools from different counties served by different Regional Educational Service Agencies, based on "the need for improvement as demonstrated by large numbers of out-of-school suspensions and other non-structured exclusions from the regular classroom and low performance on other measures of student and school performance and progress."

The final selections would be made after consultation with the Legislative Oversight Commission on Education Accountability (LOCEA).

The WVDE also is to study the "design of in-school, structured alternatives for enforcement of the Student Code of Conduct at the schools selected, which shall include both an instructional component and a discipline improvement component through which the student may gain re-admittance to the regular classroom."

Again, the WVBE is to consult with the Oversight Commission before implementing the programs and "may propose variations in program design for the different schools to appropriately meet their specific needs."

Finally, the WVBE is to provide a "method for monitoring the progress, evaluating the success and reporting the results of the pilot program to [LOCEA]."

Del. Sharon Spencer, D-Kanawha, was instrumental in spearheading the resolution's introduction. (*See Spencer's "Guest Perspective" column in the Jan. 30 issue of The Legislature.*)

### **Written consent from bus drivers**

Among bills considered by the Senate Education Committee this week was a measure – **Senate Bill 765** – which would prohibit county boards, without the written consent of the employee, from establishing the "beginning work station for a bus driver or transportation aide at any site other than a board-owned facility with available parking. "The workday of the bus operator or transportation aide will commence at the bus at the designated beginning work station and will not end until the employee is able to leave the bus at the designated beginning work station, unless the employee agrees otherwise in writing."

The committee also approved **Senate Bill 792** which relates to merging Fairmont State Community and Technical College with Fairmont State University and renaming the Community and Technical College of Shepherd.

For the status of these bills, see Bill Abstract on page 13

*Editor's note: The above bill listing is not exhaustive. Please also see Administrative Perspective on page 17.*

## RESA friends must stand up to stay alive

### *Senate Bill would all but eliminate these agencies as we know them*

By Howard M. O’Cull, Ed.D.,

West Virginia School Boards Association Executive Director

Conventional legislative wisdom says that the state’s eight Regional Educational Service Agencies (RESAs) are facing the toughest challenge to their existence since the early 1990s when the agencies came under fire as having little direction, accountability, and lacking innovation.

Of course, not everyone saw things that way, and RESAs survived, though they were the subject of several harangues from legislators, including a well-publicized 1990s “speech” by then Senate Education Vice Chairman Sammy Dalton, D-Lincoln, in which he excoriated RESA executive directors for their salaries while throwing in a kitchen sink litany of other “problems” with the agencies.

The agencies, however, were required to have half their meetings in evening time to accommodate county board members’ schedules and a few other changes, including revised goals for technology repair.

Armed with funding through the School Aid Formula (SAF), RESAs continued to grow and establish themselves, all the while maintaining independence and programming as determined by their boards of directors.

(When making their annual legislative presentations, RESA executive directors all said they did what their boards of directors “wanted” in terms of programming. This line of thought eventually evolved into legislators setting goals for the agencies, although RESAs maintained programmatic autonomy.)

The latest wave of RESA reform came in 2002 when then Senate Education Committee Chairman Lloyd G. Jackson II, D-Lincoln, helped craft a plan to place the agencies under tutelage of the state School Board.

Simply put, West Virginia Department of Education bureaucrats were not about to let that happen, thus seriously eroding and negating the intent of the 2002 reforms – and actually placing RESAs in the posture and “orphan” status they have today.

Since 2002, there have been efforts to clarify the intent of the RESA reform legislation, which made the agencies’ boards of directors “advisory.”

Things still went along relatively well until last year when Gov. Joe Manchin “zeroed-out” RESAs in his budget—an action not unheard of over the years.

That move, which many legislators privately say they did not support, was refocused into a question of whether RESAs should

continue to receive money via a step in the state School Aid Formula.

The Senate opted to make RESA funding “subject to legislative appropriation.” The House — largely due to a more cozy relationship between some high-ranking members of the House Education and Finance Committees – managed to shove an amended Senate bill that made the agencies “subject” to legislative appropriation into House Finance, where the proposal died.

While the agencies did not get their full funding, they were spared demise.

Upon the 2005 legislative actions, RESA executive directors went in search of friends and allies, including the West Virginia School Boards Association, whose members have supported the agencies over the years.

Last year, several strategies were mentioned among groups that support RESAs, including establishment of a broad-based committee to discuss ways in which to shore up and fine-tune the agencies.

Then State Superintendent of Schools David Stewart essentially scuttled that notion when he said the approach would weaken the State Board’s RESA oversight authority.

As the 2006 session approached, news surfaced about alleged fiscal irregularities in RESA I in Beckley. This came on top of RESA VIII officials’ alleged involvement with Hampshire County Schools and then superintendent David Friend and reported improper spending of federal dollars.

These two events, at least in the legislative milieu, have subjected RESAs to extreme scrutiny – scrutiny well beyond that of the last several years, especially as coupled with a governor who apparently sees the agency as expendable and a State Board that can’t seem to get its arms around the RESA issue.

Couple this with the notion that the RESA boards of directors are more advisory in nature – and with the State Board stance as it is – and RESAs fall, exacerbating their three major weaknesses (political and otherwise). These are namely allegations that they a) lack accountability, b) lack any coordinated or over-arching function in that each RESA designs its own menu of services, and c) the sheer realization that they have few friends to come to their defense, except for school boards and county superintendents – and some of that support is lukewarm.

While the RESA I situation may dominate much of the current RESA discussion, legislators increasingly are saying that the agencies, in not forging stronger bonds to regionalize services — admit-

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*The simple politics of the situation is that RESAs need friends, especially as orphan agencies that cling to independence but look like they will march to someone else’s tune of accountability.*

## National study shows adult literacy levels mostly flat from '92 to '03

### *African-Americans scored higher in all three English categories*

American adults can read a newspaper or magazine about as well as they could a decade ago, but have made significant strides in performing literacy tasks that involve computation, according to the first national study of adult literacy since 1992.

The National Assessment of Adult Literacy (<http://nces.ed.gov/naal>) was released by the U.S. Department of Education's National Center for Education Statistics. The report analyzed literacy results based on a variety of factors, including race/ethnicity, gender, age and level of educational attainment.

The study used three categories to define English-language literacy: prose, document and quantitative. Prose literacy includes the skills needed to understand continuous text, such as newspaper articles. Document literacy is the ability to understand the content and structure of documents such as prescription drug labels. Quan-

titative literacy involves using numbers in text, such as computing and comparing the cost-per-ounce of food items.

Highlights of the study showed:

- African-Americans scored higher in 2003 than in 1992 in all three categories, increasing 16 points in quantitative, eight points in document and six points in prose literacy.
- White adults' scores were up nine points in quantitative, but were unchanged in prose and document literacy.
- Hispanic adults' scores declined in prose and document literacy 18 points and 14 points, respectively, but were unchanged in quantitative literacy.
- Asian/Pacific Islanders' scores increased 16 points in prose literacy, but were unchanged in document and quantitative literacy.

## ANALYSIS

*continued from page 7*

tedly through relying on "guidance" from school boards and county superintendents — have outlived their usefulness or, more importantly for my discussion here, that they should be subsumed under the state Department of Education, literally becoming another arm of the WVDE.

This approach, which is being discussed in the halls of the Legislature, would allow a commandeering state superintendent to get the agencies out of natural gas purchasing, for instance, and into effecting more directed, focused resources dedicated to improving student achievement.

This desire to see RESAs retool — and partly to punish the lot for the "behaviors" of some RESAs which often leads RESA legislative supporters to comment publicly that "some RESAs are better than others" without mentioning any specific RESAs — is the driving force behind an amendment by Senate Minority Leader Vic Sprouse, R-Kanawha, and Senate Education Chairman Bob Plymale, D-Wayne, to ensure that the state superintendent of schools, who would be compelled to "study" RESAs, must consider what part of their duties could be assumed by the WVDE, as mentioned above, and by county boards.

When the amendment was first proposed it died in Senate Education. A day later, with Plymale's blessing, the amendment is now contained in **Senate Bill 127**.

We do not know how all this fares in the House, which is more accommodating to RESAs. Few observers see the agencies being eliminated this year. In fact, one ranking member of the Senate, who did not want to be identified, told me, "They've got one more year."

The House is likely to accept the Senate study and may go

along with legislative appropriations to fund RESAs rather than SAF funding.

This action would keep RESAs under the spotlight for another year until the 2007 session.

Depending on what occurs with the RESA I situation — that information will be shared with WVBE members two days before the Legislature adjourns — the agencies have discovered that they operate in a orphan existence of such, that they have few friends who will come to their aid, and that the very independence they have touted and claimed over the years may be their undoing in that, to most observers, it may appear to be independence without accountability.

In that day when the "A" word is paramount, we have bills like **Senate Bill 127**.

It doesn't really matter if that bill passes because RESAs are likely, through legislative study which lawmakers can direct without a bill, to become an "arm" of the WVDE. Some will see this as encroachment; others as hasty or harsh; others as in the directional vein of the state superintendent and what appears to be an extraordinarily direct aim to consolidate more authority with the WVDE, including technology and staff development, to mention two areas—areas now in purview of the Secretary of Education and the Arts office.

The simple politics of the situation is that RESAs need friends, especially as orphan agencies that cling to independence but look like they will march to someone else's tune of accountability.

**Senate Bill 127**, passing or not, is the next chapter in the RESA saga that dates from 1972. It is likely to be the final chapter, as we know RESAs today, unless the House makes a radical departure from the Senate's approach.

Remember: Everyone needs friends.

— *O'Cull has been WVSBA Executive Director since 1985.*

# RESAs: What are they? What do they do?

By Ronald B. Spencer, member  
West Virginia Board of Education

In 1972 the West Virginia Legislature enacted legislation which caused the West Virginia Board of Education to establish multi-county Regional Education Service Agencies (RESAs) “to provide for high-quality, cost-effective education programs and services to students, schools and school systems.” (West Virginia Code §18-2-26)

Unlike many agencies created by statute, the RESAs have been able to evolve during their lifetime and have continuously changed based upon the specific needs of the county school systems they serve. Some current responsibilities include providing technical assistance to low-performing schools; providing staff development for teachers; facilitating cooperative purchasing; and maintaining education-related technology equipment and software.

So, how have they done?

## Technical Assistance

- During the school year 2004-2005, RESAs conducted over 650 regional staff development sessions for over 17,500 participants. Instead of 55 counties having to do 55 separate training or workshop sessions, regional sessions are conducted. A maximum of eight sessions as opposed to 55 separate sessions – a considerable savings, one would imagine.
- NCLB requires schools not meeting certain guidelines and standards to offer tutoring. RESAs are able to offer quality tutoring services (at the local school rather than requiring students to go to another location) at a cost which is considerably less than other agencies.

## Cost Savings

- RESAs facilitate the purchase of classroom materials, custodial supplies and other goods and services used by school systems to obtain the maximum lowest prices. These prices are usually lower than statewide bids for the same goods and services. Some RESAs facilitate the purchase of utilities and fuel for school buses, again leveraging the buying power of multiple counties as opposed to single-county purchases. The annual savings for school systems amounts to millions of tax dollars.
- Often counties have a limited number of students to serve in a particular special education category. These students deserve to be served properly. RESAs are able to employ

regional special education teachers who serve students in multiple counties. If not for RESAs, counties would have to employ a full-time teacher even if they had only one student.

## Technology Maintenance

- During school year 2004-2005, RESAs successfully completed over 40,000 computer and technology-related repairs and installations.

## Administering Grants

- During the current school year, the eight RESAs have been able to use their \$5 million budget to leverage over \$39 million in additional restricted grants. These grants provide funding for school system programs, adult education programs and other projects.
- Few agencies multiply their basic operational funding (by 7 to 10 times annually) and leverage millions of additional funds.

## Other Programs

- Through their Public Service Training Programs, RESAs provided training to over 38,000 West Virginia firefighters, emergency medical technicians (EMT), coal miners, board of education employees and private-sector employees.
- Through their Adult Basic Education Programs, RESAs served over 30,000 West Virginia adults in the areas of assessment, employment skills, literacy skills, job preparation and General Educational Development test preparation.

It should be noted that there is oversight of RESAs at three levels. First, they are created by legislation, which means they come under the watchful eye of the Legislature each year. Secondly, they are governed by the West Virginia Board of Education.

Finally, each RESA has an advisory council. The council recommends continuation of or changes in RESA services and programs to the WVBE, based on identified regional needs.

While numerous other cost-saving examples exist, we are limited here by time and space. Suffice it to say, RESAs are “Open for Business” and are providing a “Maximum Return for the Investment!”

*Spencer has been a member of the West Virginia Board of Education since 1999. He is chairman of the Board of Directors of the First National Bank in West Union and a member of the Board of Appeals for the West Virginia Secondary Schools Activities Commission.*

# Promise seems to work but there is currently no sure way to track it

## *State's retention rate beats national average by 12 percent*

By Jim Wallace

State officials and others with an interest in the Promise scholarship program are optimistic it will serve its purpose of keeping West Virginia's "best and brightest" young people in the state.

But as the *Charleston Daily Mail* reported Tuesday, the state has no permanent tracking system to determine whether that will actually be the case. The first class of Promise scholars is about to graduate but no one knows for sure whether they intend to stay in West Virginia or seek employment elsewhere.

Lisa DeFrank-Cole, executive director of the program, told the paper that her office plans to send voluntary surveys to Promise graduates in the months ahead but there is no mandatory tracking system.

An accompanying article reported that about 52 percent of the original 3,485 students who received Promise scholarships four years ago are on track to graduate this spring. Former Gov. Bob Wise, who persuaded the Legislature to fund Promise in 2001, rejoiced that the rate is much higher than the national retention rate. Nationally, fewer than 40 percent of students finish college within four years.

The *Daily Mail* stories came out 25 days after this publication, *The Legislature*, reported that Wise, DeFrank-Cole and many other officials were optimistic that Promise would live up to its goal of keeping the best students in West Virginia, so they could contribute to its economy in their working years.

That was based on a study that found that about three-quarters of West Virginians who graduated from a college or university within the state would stay in the state after graduation. If they went to college out of state, the likelihood was much greater that they would establish careers outside of West Virginia.

"Anything we can do to keep all our young people there we ought to be doing," Wise, now president of the Alliance for Excellent Education in Washington, said. "We would spend much more trying to get the same people back."

Even lawmakers who don't like it that Promise is funded with gambling revenue from video lottery machines agreed that Promise is likely to meet its goal of keeping more of the best and brightest young West Virginians from fleeing to other states. For example, Sen. Steve Harrison, R-Kanawha, agreed with Wise that a merit-based scholarship program would probably do more good in West Virginia than in a state with a stronger economy like Georgia, whose Hope scholarship program was a model for Promise.

Teachers in both secondary and higher education have reported that students have been working harder to improve their academic performance because of Promise. For instance, Jack Byrd, professor of engineering at West Virginia University, found that the number of freshman engineering students getting 4.0 grade-point averages during the fall semester has increased fourfold from an average of nine before Promise to 35 or 36 since Promise.

— Wallace is a former government reporter for the *Charleston Daily Mail* and former news director of *West Virginia Public*

Radio. He now works for TSG Consulting in Charleston and writes for several national and West Virginia

## Wisdom

*"If you observe  
a really happy man,  
you will find...that  
he is happy in the course  
of living 24 crowded hours  
each day..."*  
— Australian Psychiatrist  
**W. Beran Wolfe**  
(1900-1935)

## 2006 Legislative Calendar

- ✓ **1<sup>st</sup> Day** – Jan. 11: Second Regular Session 77<sup>th</sup> West Virginia Legislature Convenes/State of the State Address. (WV Const. Art. VI, §18)
- ✓ **20<sup>th</sup> Day** – Jan. 30: Submission of Legislative Rule-Making Review bills due. (WV Code §29A-3-12)
- ✓ **41<sup>st</sup> Day** – Feb. 20: Last day to introduce bills in Senate. Does not apply to originating or supplementary appropriation bills. Does not apply to Senate resolutions or concurrent resolutions. (Senate Rule 14)
- ✓ **45<sup>th</sup> Day** – Feb. 24: Last day to introduce bills in House of Delegates. Does not apply to originating or supplementary appropriation bills. Does not apply to House resolutions or concurrent resolutions. (House Rule 91a)
- ✓ **47<sup>th</sup> Day** – Feb. 26: Bills due out of committees in house of origin to ensure three full days for readings.
- ✓ **50<sup>th</sup> Day** – March 1, 2006: Last day to consider bill on third reading in house of origin. Does not include budget or supplementary appropriation bills. (Joint Rule 5b.)
- 60<sup>th</sup> Day** – March 11: Adjournment at midnight. (WV Const. Art. VI, §22)

From *West Virginia Legislature*, *West Virginia Association of Counties*, *West Virginia School Boards Association*

# Statewide excess levy bill would have funded teacher salaries; last proposed '96

## *'Rule of 80' measure pronounced dead*

The March 1, 1996, issue of *The Legislature* reported that the House of Delegates had adopted legislation that would have placed a statewide excess levy constitutional amendment on the ballot in the 1996 General Election. (The state Senate did not adopt this legislation.)

To sweeten the pot with reluctant House members, many of whom saw the proposal as a "bonanza" for the "education industry," as then Del. Vic Sprouse, R-Kanawha, said, the proposal would have increased the state Homestead Exemption from \$20,000 to \$40,000.

According to *The Legislature*, the measure was debated in the House for about three hours, with two amendments rejected, one of which would have prohibited county boards from increasing local levy rates without voter approval.

Among other things, money was to be used to equalize teacher salaries.

In other action, legislation to provide county board members Public Employees Insurance Agency (PEIA) coverage was approved by Senate Education on a 7-4 vote, with Sen. Rebecca I. White, D-Harrison, and Michael Oliverio, D-Monongalia, speaking against

the proposal.

Board members also were on the way to getting a pay increase, the first then since 1985, while the "Rule of 80" was pronounced dead.

An Integrated Pest Management proposal was approved after some wrangling over whether it would prove too costly for schools.

Principals also were on the way to having their salary increments increased, and House Education was considering a measure that would prohibit county boards from having authority to remove an attendance director, although attendance officers' duties were specifically delineated. Also, revisions were beginning to take shape for changes in the state's Open Governmental Proceedings Act.

Cheryl Marsh discussed the West Virginia History Film Project, mentioning that each school would get "VHS" copies of the film. The project was a venture between the state Department of Education and the Arts, the state Department of Culture and History and the West Virginia Humanities Council.

The Humanities Council is working on a similar project, an encyclopedia about state history, culture, state officials and facts.

*From The Legislature, March 1, 1996*

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## Deadline for Bill of Rights Institute summer workshops is March 15

The Bill of Rights Institute announced that it received a grant from the National Endowment for the Humanities (NEH) "Landmarks of American History and Culture" program to hold its Summer Workshop, "Shaping the Constitution: A View from Mount Vernon 1783-1789."

Co-sponsored with George Washington's Mount Vernon Estate and Gardens, and a part of NEH's "We the People" initiative, the weeklong workshops will bring 150 elementary, middle and high school educators from across the country to interact with leading constitutional scholars. They will examine Mount Vernon as the intellectual crossroads for the discussions that led to the U.S. Constitution.

Each day of the workshop will highlight individuals who visited Mount Vernon during the 1780s. Lectures will focus on eight central themes of the Founding Era: Republican government, equality, liberty, slavery, limited government, federalism, commerce and freedom of religion.

Examining these themes at the historical landmark where the founders actually discussed them will enable teachers to gain a

sense of the importance of this historical place, make connections between what they learn in the workshop and what they teach, and develop enhanced teaching materials for their classrooms.

Landmarks of American History and Culture Workshops are offered by the National Endowment for the Humanities through its "We the People" initiative to provide the opportunity for K-12 educators to engage in intensive study and discussion of important topics in American history.

"Shaping the Constitution: A View from Mount Vernon 1783-1789," will be offered to 50 teachers at three different times during the summer of 2006: June 19-23, July 17-21 and Aug. 7-11. Teachers interested in applying should visit the Bill of Rights Institute Web site at <http://www.BillofRightsInstitute.org/SI2006>.

Application deadline is March 15, 2006.

- *The Bill of Rights Institute is an educational nonprofit organization founded in 1999. Its mission is to educate teachers about our country's founding principles through classroom materials and programs.*

## Tech would become WVU-Montgomery

The House of Delegates voted 92-4 on Wednesday to make financially strapped West Virginia University Institute of Technology a division of WVU.

The bill (**House Bill 4690**) would fully merge what is now a regional campus of WVU into the university, creating the Montgomery campus of WVU, similar to WVU regional campuses in Parkersburg and Keyser.

House Education Chairman Tom Campbell, D-Greenbrier, said merging Tech into WVU is the only way to assure Tech's survival. Tech officials have identified at least \$14 million of needed improvement projects on the Montgomery campus, including a new residence hall.

The bill passed by the House is now completely opposed to its original purpose, which was to make Tech a freestanding college, independent of WVU. The House amended the bill after the Education and Finance committees concluded that Tech cannot survive on its own.

The debate over the future of the Montgomery campus surfaced when Gov. Joe Manchin announced plans in his State of the State address to move Tech's engineering programs to the Dow Technology Park in South Charleston, where it would become a division of WVU's College of Engineering.

## Investigator to give RESA money report

West Virginia MetroNews reports that the man heading the investigation into missing money from the Regional Education Service Agency I office in Beckley said he has all the information he needs to update the state Board of Education.

Jim Welton will present his 12-page draft of findings to the board during next week's monthly meeting.

"I've completed the investigation as far as I'm concerned and I will be making a report to the State Board of Education on March 8," he said.

Welton said he spent hours going through paperwork and interviewing employees at the RESA I and Raleigh County Board of Education offices.

Education leaders discovered more than \$1 million RESA I dollars were missing over a number of years. One RESA employee handed in her resignation just before the news of the missing money was released to the public.

Federal officials are heading up the separate criminal investigation.

## Senate passes 'Logan's Law' amendment

State senators passed a law Wednesday that would allow violent sexual predators to be kept in jails or hospitals long after completing their prison sentences.

"Logan's Law" was passed as an amendment to Senate Bill 295, which already dealt strongly with violent sexual predators and pedophiles. The 28-5 vote in favor of the amendment by Senate Minority Leader Vic Sprouse, R-Kanawha, seemed to shock even Sprouse.

Before Sprouse's amendment, Republicans had worked to get two amendments by Sen. Clark Barnes, R-Randolph, approved.

Those amendments enhanced prison penalties for second-time offenders, while the bill had targeted longer prison time for pedophiles and violent sexual offenders.

Sprouse said South Carolina and Kansas have civil commitment laws that target people who are considered potential repeat sexual offenders and pedophiles — "people who are beyond repair."

The measure is called "Logan's Law" after Logan Shane Goodall, a 2-year-old Putnam County boy who died last September. He had been beaten and sexually abused.

## County officials' may set their own salaries

Salaries for West Virginia county officials are now set by the state and are uniform, determined by the size of a county's population, but a bill now under consideration would allow commissioners in each county to set the salaries for all elected county officials — including themselves — depending on their job duties and the county's budget.

It would be up to commissioners to agree on what's fair, and the pay could vary significantly from one office to the next and from one county to another.

The bill already has passed the Senate and was introduced Tuesday in the House of Delegates.

Sen. Shirley Love, D-Fayette, said he's heard from a lot of county officials who want pay in their areas to more accurately reflect the issues and problems they're dealing with individually.

The state Association of Counties has called for a fairly hefty increase for all elected officials, citing increased demands on local governments and the problem of attracting good people to run for county office. A bill providing for that raise — up to \$10,000 in some cases — still is circulating in the Legislature.

## Senate passes abortion notification bill

The Senate on Wednesday passed 32-2 and sent to the House of Delegates the parental notification abortion bill.

Pro-life group West Virginians for Life is pushing the bill that eliminates a provision in the law now that allows a doctor approve an abortion for a minor without notifying her parents. Pro-life supporters believe the physician waiver constituted a loophole.

Pro-choice organizations are fighting the bill. They believe eliminating the waiver and forcing a minor to go to court if she wants an abortion without notifying her parents is a hardship on the minor and will lead to back alley abortions.

The bill was amended to reduce the penalty for a doctor who violates the law from a felony to a misdemeanor.

## WVEA chief: state can afford pay raises

West Virginia Education Association President Charles Delauder said there is no reason a budget surplus cannot be put into an across-the-board teacher pay raise this year.

"We've always been told in the past there's no money for salary increases, yet, this year they're projecting a \$350 million surplus, next year a \$250 million surplus and so on down the road," Delauder said during Wednesday's MetroNews Talkline statewide

See **IN BRIEF** on page 18

# Bill Abstract

## *Education-related Senate Bills*

- Senate Bill 7** – Establishing a “Flood Protection Planning Act.” (Bailey, lead sponsor). Passed Senate 1/31/06. Referred to House Government Organization, then House Finance. Introduced in House 2/1/06.
- Senate Bill 13** – Requiring cross-reporting of suspected abuse or neglect of individuals or animals (Yoder, lead sponsor). Passed Senate 1/24/06. Referred to House Judiciary.
- Senate Bill 18** – Granting tuition waivers to children and spouses of parole and probation officers killed in the line of duty (Bailey, lead sponsor). To Education then Finance 2/24/06. Passed Senate 3/1/06.
- Senate Bill 32** – Relates to educational opportunities for children of military personnel (Hunter, lead sponsor). To Education 1/31/06. Passed Senate 3/1/06.
- Senate Bill 49** - Allowing county board of education to enter into lease-purchase agreements (Hunter, lead sponsor). Introduced in Senate on 1/11/06. To Finance on 2/10/06.
- Senate Bill 53** – Changing ratio of school nurses to enrollment (Hunter, lead sponsor). To Education then Finance 2/24/06. Passed Senate with amended title 3/1/06.
- Senate Bill 57** – Relating to designation and operation of traffic signal as flashing signal (Hunter, lead sponsor). Passed Senate with amended title 2/3/06. To House Roads and Transportation 2/6/06.
- Senate Bill 107** – Relating to venue for certain suits against state (Chafin, lead sponsor). To Judiciary then Finance 2/1/06. Passed Senate 3/1/06.
- Senate Bill 114** – Relating to teen court program fees (Kessler, lead sponsor). To Finance 2/1/06. Passed Senate 2/28/06. To House 2/28/06. On first reading, House Calendar 3/1/06.
- Senate Bill 127** – Relating to regional education service agencies (Tomblin, lead sponsor). To Education 1/12/06. To Finance 1/15/06. Passed Senate 3/1/06.
- Senate Bill 187** – Requiring uniforms for public school students (Chafin, lead sponsor). To Senate Education 1/17/06.
- Senate Bill 205** – Relating to the sex offender registry (Tomblin, lead sponsor). To Judiciary 1/18/06. (Same as HB4039). Passed Senate with amended title 3/1/06.
- Senate Bill 206** – Relating to floodplain management and flood debris cleanup (Oliverio, lead sponsor). (Same as HB4059). Passed Senate 3/1/06.
- Senate Bill 219** – Changing expiration date of graduated drivers licenses; prohibiting cell phone use by certain minors (Foster, lead sponsor). (Same as HB 4634). Passed Senate 3/1/06.
- Senate Bill 236** – Expanding definition of child abuse to include parental alcohol and substance abuse (Prezioso, lead sponsor). Passed Senate 2/20/06. To House Judiciary 2/21/06.
- Senate Bill 245** – Creating the Consolidated Local Government Act (metro government) (Bowman, lead sponsor). Passed Senate 2/17/06. To House Government Organization 2/20/06.
- Senate Bill 370** – Creating personal property tax exemption for farm equipment and livestock (Helmick, lead sponsor). Passed Senate 2/1/06. To Judiciary then Finance 2/8/06. Passed House 2/13/06. Effective July 1, 2006.
- Senate Bill 371** – Reducing severance tax on timber (Helmick, lead sponsor). Passed Senate 2/1/06. To House Finance 2/2/06.
- Senate Bill 390** - Authorizing Board of Examiners of Psychologists promulgate legislative rule relating to qualifications for licensure as psychologist or school psychologist (Minard, lead sponsor). To Education 2/1/06. To Senate Judiciary 2/10/06.
- Senate Bill 415** – Relating to credit card solicitations on college campuses (Chafin, lead sponsor). (Same as HB4426). Passed Senate 3/1/06.
- Senate Bill 428** – Providing uniformity in purchasing card procedures (Minard, lead sponsor). (Same as HB4275) Passed Senate 3/1/06.
- Senate Bill 442** - Changing expiration date of graduated driver’s license (Kessler, lead sponsor). Passed Senate 2/3/06. To House Roads and Transportation then Judiciary 2/6/06.
- Senate Bill 483** – Providing confidentiality of circuit court records involving guardianship of minors (Kessler, lead sponsor). Introduced 2/2/06 – Effective from passage. To House Judiciary 2/8/06.
- Senate Bill 489** – Authorizing state Treasurer to remit processing and e-government services to political subdivisions (Chafin, lead sponsor). To Government Organization then Finance 2/23/06. Passed Senate 3/1/06.
- Senate Bill 490** – Providing gasoline excise tax exemption for certain county aging programs (Helmick, lead sponsor). Passed Senate 2/28/06. To House Finance 2/28/06.
- Senate Bill 517** – Requiring multidisciplinary treatment team for certain juveniles (Foster, lead sponsor). Passed Senate 3/1/06. Effective from passage.
- Senate Bill 519** – Relating to parental notification requirements for abortions performed on un-emancipated minors (Prezioso, lead sponsor). Passed Senate 3/1/2006. Effective from passage.
- Senate Bill 545** – Relating to workers’ compensation benefits for schools personnel (Plymale, lead sponsor). To Senate Education 2/9/06.
- Senate Bill 570** – Relating to fairness and equity in public school finance (Plymale, lead sponsor). Passed Senate with amended title 3/1/06. Effective July 1, 2006.
- Senate Bill 587** – Relating to increment pay for certain higher education faculty (Edgell, lead sponsor). On second reading to Finance 2/17/06. Passed Senate 3/1/06. Effective July 1, 2006.
- Senate Bill 598** – Relating to Teachers Retirement System’s qualified plan status. Passed Senate 2/28/06 (Foster, lead sponsor). To House Pensions and Retirement 2/28/06.
- Senate Bill 603** – Renaming day after Thanksgiving is Lincoln’s Day (Caruth, lead sponsor). Passed Senate 3/1/06.
- Senate Bill 620** – Relating to consolidation of administrative services by boards of education and regional education service agencies. (Same as HB4680). To Education 2/17/06. Passed Senate 3/1/06.
- Senate Bill 631** – Relating to criminal school truancy complaints (Kessler, lead sponsor). Passed Senate 2/22/06. To House Education 2/23/06.
- Senate Bill 633** – Addressing certain teacher critical shortage areas (Plymale, lead sponsor). Second reading to Finance 2/17/06. Passed Senate 3/1/06.

See **BILLABSTRACT** on page 14

# BILL ABSTRACT

*continued from page 13*

- Senate Bill 634** – Exempts certain higher education development projects from Design-Build Procurement Act (Plymale, lead sponsor). Passed Senate 2/21/06. To House Education 2/22/06.
- Senate Bill 635** – Requires county boards of education to maintain certain flood insurance (Edgell, lead sponsor). Passed Senate 2/21/06. To House Education 2/22/06.
- Senate Bill 653** – Relating to duties of Chief Technology Officer; establishing Technology Infrastructure Fund (Tomblin, lead sponsor). Passed Senate with amended title 3/1/06.
- Senate Bill 666** – Allowing use of accumulated sick leave for family leave (Foster, lead sponsor). Passed Senate 3/1/06.
- Senate Bill 762** – Continuing poison control center (McCabe, lead sponsor). Passed Senate 3/1/06.
- Senate Bill 765** – Relating to start of workday for school bus operators and transportation aides (Chafin, lead sponsor). Passed Senate with amended title 3/1/06. Effective July 1, 2006.
- Senate Bill 782** – Relating to READS grant program (Plymale, lead sponsor). Passed Senate 3/1/06.
- Senate Bill 783** – Relating to National Board for Professional Teaching Standards certification (Plymale, lead sponsor). Passed Senate 3/1/06.
- Senate Bill 784** – Relating to teacher certification (Plymale, lead sponsor). Passed Senate 3/1/06.
- Senate Bill 785** – Relating to school physical education requirements (Plymale, lead sponsor). Passed Senate 3/1/06.
- Senate Bill 787** – Creating Transportation Coordinating Council (Unger, lead sponsor). Passed Senate with amended title 3/1/06.
- Senate Bill 792** – Merging Fairmont State Community and Technical College with Fairmont State University; renaming Community and Technical College of Shepherd (Oliverio, lead sponsor). Passed Senate with amended title 3/1/06. Effective July 1, 2006.

## *Education-related House Bills*

- House Bill 2141** - Prohibiting persons from soliciting contributions on public highways. Passed House 2/9/06 (Hamilton, lead sponsor). To Senate Judiciary 2/10/06.
- House Bill 2328** - Giving precedential application to written advisory opinions issued by the state Ethics Commission's Committee on Open Governmental Meetings (Amores, lead sponsor). Passed House of Delegates 1/31/06. Referred to Senate Government Organization, then Senate Judiciary.
- House Bill 2424** - Prohibiting persons from impersonating a public official by copying or imitating the markings of a public agency or official on a motor vehicle (Webster, lead sponsor). Passed House 1/30/06. Referred to Senate Judiciary.
- House Bill 2548** – Establishing “The Diabetes Care Plan Act.” Requires the State Board of Education to adopt and disseminate guidelines for the development and implementation of individual diabetes care plans and to require local boards of education to implement these guidelines (Tucker, lead sponsor). Introduced in House on 1/11/06. To House Education 2/20/06. First reading Consent Calendar 2/16/06. To Health and Human Resources 2/21/06.
- House Bill 2607** – Expanding newborn screening by adding sickle cell anemia and adrenal hyperplasia (Leach, lead sponsor).

Passed House 2/7/06. To Health and Human Resources then Senate Finance. To Senate 2/8/06

- House Bill 3019** – Establishing “Community Volunteer Enrichment Programs” in the public schools (Beach, lead sponsor). Passed House 2/27/06. To Senate 2/28/06.
- House Bill 3213** - Creating the offense 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” (DeLong, lead sponsor). Passed House 1/25/06. Referred to Senate Judiciary, then Senate Finance.
- House Bill 4011** - Relating to creation of a special unit within the State Police specializing in child abuse and neglect investigations (Mahan, lead sponsor). Passed House 1/20/06. Referred to Senate Government Organization, then Senate Finance.
- House Bill 4012** - Creating “Child Abuser Registration Act” (Mahan, lead sponsor). Passed House 1/20/06. Referred to Senate Judiciary, then Senate Finance.
- House Bill 4015** – Relating to funding of Revenue Shortfall Reserve Fund (Kiss, lead sponsor). (Same as SB126). Passed House 2/28/06. To Senate 3/1/06.
- House Bill 4018** – Relating to the community corrections subcommittee of the Governor’s Committee on Crime, Delinquency and Correction (Kiss, lead sponsor). Passed House 2/20/06. To Senate Finance 2/21/06.
- House Bill 4019** - Relating to the preparation and distribution of the Budget Digest (Kiss, lead sponsor). Passed House 1/24/06. Effective from passage. Referred to Senate Finance on 1/25/06. Reported do pass 2/22/06. Laid over on third reading 3/1/06.
- House Bill 4023** – Raising the minimum wage in accordance with legislation now pending before Congress (Brown, lead sponsor). (Same as SB 146). Passed House 3/1/06.
- House Bill 4032** – Relating to authorizing the Consolidated Public Retirement Board to recover the payment and a fee, as provided by legislative rule, from a participating employer who fails to timely pay amounts due (Stalnaker, lead sponsor). Passed House 2/1/06. Referred to Senate Pensions then Finance. To Finance on 2/9/06.
- House Bill 4034** – Correcting definitions applicable to the assessment of real property (Stalnaker, lead sponsor). Removing the requirement that a no longer disabled employee must return to his or her former job. Passed House 2/1/06. To Senate Pensions and then Finance 2/9/06.
- House Bill 4037**. Correcting definitions applicable to the assessment of real property (Michael, lead sponsor). Passed House 1/19/06. Passed Senate 2/1/06. To Governor House and Senate Journal on 2/6/06. Approved by Governor 2/7/06 in both Journals.
- House Bill 4038** – Relating to donation and transfer of surplus personal computers and other information systems, technology and equipment for educational purposes (Campbell, lead sponsor). Passed House of Delegates 1/19/06. Referred to Senate Education, then Senate Finance. To Education on 1/20/06.
- House Bill 4040** – Requiring voter approval prior to closure and consolidation of certain schools, includes requirement for successful petition signed by 20 percent of registered voters in county prior to ballot placement (Williams, lead sponsor). Passed House 1/19/06. Referred to Senate Education, then Senate Judi-

*See BILL ABSTRACT on page 15*

# BILL ABSTRACT

*continued from page 14*

- ciary. To Education on 1/20/06.
- House Bill 4047** – Relating to part-time prosecuting attorneys (Pethtel, lead sponsor). Passed House 2/1/06. Referred to Education then Judiciary. Reported do pass on 2/21/06.
- House Bill 4048** – Placing limitations on the use of eminent domain (Amores, lead sponsor). Passed House 1/19/06. Referred to Senate Economic Development, then Government Organization. To Government Organization on 2/6/06.
- House Bill 4049** – Relating to state-funded student financial aid, including Promise scholarship (Campbell, lead sponsor). Passed House 1/19/06. Referred to Senate Education, then Senate Finance. Senate Education Subcommittee created to consider measure. To Finance on 2/6/06.
- House Bill 4073** – Establishing the crime of trafficking persons (Spencer, lead sponsor). Amendments pending 2/17/06. House Calendar 2/24/06.
- House Bill 4077** – Establishing a state minimum salary supplement for professional personnel holding a nationally recognized professional certification in speech-language pathology, audiology, or counseling (Williams, lead sponsor). Passed House 3/1/06. Effective July 1, 2006.
- House Bill 4105** - Requiring persons who have judgments against them and their wages to notify the court of any change of job status or employer (Williams, lead sponsor). Passed House 2/15/06. Action deferred to Senate 2/15/06.
- House Bill 4119** – Creating the ATV Responsibility Act (Cann, lead sponsor). Passed House 3/1/06.
- House Bill 4121** – Enhancing the penalty for indecent exposure where the victim is a child under the age of fourteen. Removed from Consent Calendar by request 3/1/06.
- House Bill 4126** – Relating to retention of seniority for the purpose of seeking reemployment for professional employees whose employment with a county board of education was terminated voluntarily (Kiss, lead sponsor). To Education then Finance on 1/26. With amendment, do pass 2/17/06 but first to House Finance. Passed House 3/1/06.
- House Bill 4133** – Clarifies that magistrate courts have concurrent juvenile jurisdiction with circuit courts in regard to enforcement of laws prohibiting the possession or use of tobacco by minors (Perry, lead sponsor). Passed House 2/3/06. To Health and Human Resources 2/6/06.
- House Bill 4204** - Relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to Cancer Registry (Mahan, lead sponsor). Introduced on 1/27/06. To House Finance.
- House Bill 4240** - Changing the name of the Community and Technical College of Shepherd to Blue Ridge Community and Technical College (Wysong, lead sponsor). To Senate Education on 2/14/06.
- House Bill 4253** – Removes the requirement for dual membership of certain higher education governing board chairs (Doyle, lead sponsor). Passed House 2/22/06. To Senate Education 2/23/06
- House Bill 4256** – Providing a procedure for removal of county, district or municipal officers (Stemple, lead sponsor). Passed House 2/22/06. To Senate Government Organization 2/23/06.
- House Bill 4260** - Requiring state board review of system of education performance audits (Perry, lead sponsor). Passed House 2/15/06. Action deferred to Senate 2/15/06. To Education then Finance 2/16/06.
- House Bill 4283** – Providing a preference of West Virginia veterans in the awarding of state contracts in the competitive bidding process (Kiss, lead sponsor). Passed House 2/21/06. To Senate Military then Finance.
- House Bill 4291** – Relating to consideration of aggravated circumstances of neglect and abuse committed against children in the same household or blended family (Mahan, lead sponsor). Passed House 2/20/06. To Senate Judiciary 2/21/06.
- House Bill 4296** - Providing employer immunity from liability for disclosing job-related information concerning an employee or former employee to a prospective employer (Craig, lead sponsor). Passed House 2/8/06. Action deferred to Senate Judiciary on 2/9/06.
- House Bill 4341** - Requiring that instructional support and enhancement days are held twice before Dec. 31 and three times after Jan. 1 for the instructional term (Schadler, lead sponsor). Introduced in House on 2/1/06. With amendment, do pass 2/15/06. On first reading, Consent Calendar 2/16/06. On third reading, right to amend, House Calendar 2/24/06.
- House Bill 4355** - Providing for the temporary detention of juveniles who are the named respondent in an emergency domestic violence protective order when the stated juvenile resides with the petitioner (Brown, lead sponsor). Passed House 2/15/06. Action deferred to Senate 2/15/06.
- House Bill 4379** – Relating to insurance coverage for mammograms, pap smears and human papillomavirus (Brown, lead sponsor). To House Judiciary 2/23/06. Passed House 3/1/06.
- House Bill 4393** – Adjusting foundation allowance for transportation for projected fuel costs (Campbell, lead sponsor). To House Finance 2/6/06. Passed House 3/1/06. Effective July 1, 2006.
- House Bill 4398** - Improving the capacity of county boards of education to provide school health services (Campbell, lead sponsor). Introduced in House 2/6/06. To House Finance 2/15/06, with amendment do pass. Passed House 3/1/06. Effective July 1, 2006.
- House Bill 4406** - Removing the requirement to evaluate certain classroom teachers at least every three years (Perry, lead sponsor). Introduced in House on 2/6/06. Action deferred, do pass, 2/15/06. Passed House 2/20/06. To Senate Education 2/21/06.
- House Bill 4444** – Permitting land grant university researchers performing research to plant ginseng seed and to dig, collect or gather ginseng on state public lands (Kiss, lead sponsor). Passed House 2/28/06. To Senate 3/1/06. To Agriculture.
- House Bill 4447** - Authorizing county boards of education to lease school buses for transportation associated with fairs, festivals and other educational or cultural events (Perry, lead sponsor). Passed House 2/15/06. Action deferred to Senate 2/15/06.
- House Bill 4472** – Includes family court jurisdiction in all proceedings concerning grandparent visitation (Kominar, lead sponsor). Do pass Consent Calendar 2/22/06.
- House Bill 4481** – Establishes a permissive provision for using ballot-scanning devices for election night tabulations (Amores, lead sponsor). Passed House 2/20/06. To Senate Judiciary 2/21/06.
- House Bill 4487** – Allowing an individual, who is at least sixteen years old to be in the vehicle to assist the Class Q permittee.

*See BILL ABSTRACT on page 16*

## BILL ABSTRACT

*continued from page 15*

- Passed House 2/28/06. To Senate Natural Resources 3/1/06.
- House Bill 4488** – Creating a commission to complete a comprehensive study of the state’s behavioral health system (Perdue, lead sponsor). Passed House 2/22/06. To Senate Health and Human Resources 2/23/06.
- House Bill 4489** – Testing of electronic voting machines used for early voting in order to allow their use on Election Day (Morgan, lead sponsor). Passed House 2/22/06. To Senate Judiciary 2/23/06.
- House Bill 4491** – Establishing the third week of October as Disability History Week for the State of West Virginia (Kiss, lead sponsor). Passed House 2/22/06. To Senate Education 2/23/06.
- House Bill 4492** – Relating to absentee voting by facsimile (Kiss, lead sponsor). Passed House 3/1/06.
- House Bill 4510** – Removing language requiring the commission to maintain a registry and censuses of persons who are deaf of hard of hearing (Kiss, lead sponsor). Passed House 3/1/06.
- House Bill 4518** – Relating to substitute service personnel seniority (Caputo, lead sponsor). To Education then Finance 2/13/06. Passed House 3/1/06. Effective July 1, 2006.
- House Bill 4544** – Allowing for more teachers to be reimbursed for approved course work (Campbell, lead sponsor). To House Finance 2/17/06. Passed House 3/1/06.
- House Bill 4546** – Continuing additional compensation for holders of national board for professional teaching standards certification who are subsequently employed in principal and assistant principal positions (Campbell, lead sponsor). To House Finance 2/21/06.
- House Bill 4547** – Increasing the funds available for transfer to the Prepaid Tuition Trust Escrow Fund in certain circumstances (Campbell, lead sponsor). To House Finance 2/17/06. Passed House 3/1/06.
- House Bill 4578** – Extending the expiration date of provisions permitting retired teachers to accept employment as substitutes in areas of critical need and shortage for an unlimited number of days without affecting retirement benefits (Perry, lead sponsor). Passed House 2/23/06. To Senate 2/23/06.
- House Bill 4603** – Authorizing rules for Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education regarding authorization of degree granting institutions (Campbell, lead sponsor). Passed House 2/22/06. To Senate Education 2/23/06.
- House Bill 4623** – Relating to reports of inspections of schools by local boards of health. To Education then Finance 2/17/06. Passed House 3/1/06.
- House Bill 4625** – Extending certain authority to professional personnel designee of school principal (Campbell, lead sponsor). Third reading House Consent Calendar 2/24/06. Passed House 2/24/06. To Senate Education 2/27/06.
- House Bill 4626** – Including private schools, parochial schools, church schools, and other schools operated by a religious order in state student teaching programs. Passed House 3/1/06. Effective from passage.
- House Bill 4683** – Establishing the right to trial by jury when a juvenile is accused of acts of juvenile delinquency that constitutes a crime punishable by incarceration if committed by an adult (Amores, lead sponsor). On second reading, Special Calendar. Passed House 2/27/06.
- House Bill 4689** – Increasing beginning teacher salaries (Campbell, lead sponsor). On third reading, Special Calendar 2/24/06. To Senate Education then Finance 2/27/06.
- House Bill 4690** – Making WVU Institute of Technology a division of WVU. (Same as SB698). To House Finance 2/22/06. Passed House 3/1/06.
- House Bill 4694** – Relating to abuse and neglect of children (Amores, lead sponsor). Passed House 2/28/06. To Senate 3/1/06.
- House Bill 4712** – Creating definitions and penalties for stalking (Amores, lead sponsor). Passed House 3/1/06.
- House Bill 4721** – Relating to the authorization of special messengers appointed by the County Clerk to deliver the ballot box to the central county center (Amores, lead sponsor). Passed House 3/1/06. Effective from passage.
- House Bill 4751** – Extending the time for the Board of Education of the County of Grant to meet as a levying body (Proudfoot, lead sponsor). Passed House 2/24/06. Effective from passage. To Senate 2/27/06.
- House Bill 4752** – Allowing the purchase of service credit in the State Teachers Retirement System for temporary employment under the Comprehensive Employment and Training Act (CETA) (Michael, lead sponsor). Passed House 3/1/06.
- House Bill 4785** – Allowing school service personnel the opportunity to vote on giving transfer preference to employees from a merged school (Marshall, lead sponsor). To Education then Finance 2/27/06. Passed House 3/1/06.
- House Bill 4846** – Providing one-time supplements to certain annuitants (Michael, lead sponsor). (Similar to SB225 and SB 458). Passed House 3/1/06.
- House Bill 4848** – Relating to requirements for physical education in the public schools (Campbell, lead sponsor). (Similar to SB785). Passed House 3/1/06.
- House Bill 4854** – Expert opinions of licensed psychologists in the treatment and evaluation of children and taking testimony of child witnesses. Passed House 3/1/06 (Morgan, lead sponsor). Passed House 3/1/06.

### *Senate Concurrent Resolution*

- SCR 4** - Requesting Board of Education establish position to oversee school libraries (Edgell, lead sponsor). Adopted by Senate 2/2/06. Introduced in House 2/3/06.
- SCR 59** – Requesting Governor proclaim fourth Friday of April each year “Children’s Memorial Flag Day.” (Hunter, lead sponsor). Adopted by Senate 2/24/06. To House 2/27/06.

*The Bill Abstract is current as of press time, Thursday evening. It is maintained by Shawn Fluharty, an intern with Charles Ryan Associates in Charleston. Fluharty has just been accepted to the West Virginia University College of Law.*

**Stay informed.**

*On the Web at:*  
**WVSBA.ORG**

## Grievance bill didn't go on second reading

### *Extra school nurse funding appears adequate*

By Martha Dean, Ed.D., Executive Director  
West Virginia Association of School Administrators

It is always great to go to the American Association of School Administrators' national conference and be exposed to great speakers, great ideas, and, in San Diego, wonderful weather. But, when I got back, it was necessary to return to the reality of the 2006 Legislative Session.

I knew a grievance arbitration bill was in the works, but **Senate Bill 417** was poised to come out of the Senate Finance Committee and to the floor of the Senate my first day back. In my estimation, there were provisions that were positive and those that were very negative.

I personally like the elimination of one step of the grievance procedure. In my opinion, it could be streamlined to only two steps: A hearing with the chief administrator and an appeal to an unbiased party (currently the hearing examiner). But, I should be reporting about what the bill does.

The bill still allows the submission of the grievance to the immediate supervisor at the request of the grievant, so there could still be the same four steps we are used to. However, it does not require that immediate supervisor step.

Two new provisions in **House Bill 4750** and **SB 417** are, 1) "When the chief administrator's designee holds the hearing, the grievance evaluator shall issue the final decision and the chief administrator shall have no authority to override, reverse or modify the decision," and 2) "If the governing board grants the grievance, the chief administrator may not appeal the grievance to level three."

These provisions both put the superintendent at risk because he or she is not in control of the outcome of the grievance even though they do appoint the alternative hearing officer. They certainly are not in control of the decision of the county board of education and the subject of the grievance might be action of the superintendent.

Anyone can make a mistake, including the superintendent, the board and a designee who holds a hearing and those decisions should be able to be appealed, within reason.

The decision to seek binding arbitration is entirely in the hands of the grievant but the cost is to be borne unequally, with the grievant paying one-third and the institution paying two-thirds of the cost. This provision is an unfunded mandate when you consider that we currently do not pay for the Education and State Employees Grievance Board's hearing examiners.

Although the term "binding arbitration" is used, the award of an arbitrator may be set aside by the circuit court if the award was

procured by corruption, fraud or an undisclosed conflict of interest, or if the arbitrator exceeded his or her authority.

It is somewhat ironic that the note at the end of **SB 417** indicates that the purpose of the bill is to simplify the grievance procedure by eliminating the current Level One procedure, when that is still available to employees if they choose to file the grievance with their immediate supervisor. It really does authorize arbitration as an option for educational employees and state employees.

It is the assumption of the two teacher's organizations that this change in the grievance procedure will improve the percentage of grievances in which employees prevail. I disagree because I believe that employers, particularly in education, have become more concerned about obeying the law so they will not be in court fighting a grievance they cannot win.

The continuing saga is that the bill was in Senate Finance Committee and I expected it to be on the agenda Tuesday. I went to the meeting but **SB 417** was not on the agenda but **Senate Bill 765** was taken up. This bill mainly provides that without the written consent of the employee, a county board

may not establish the beginning work station for a bus driver or transportation aide at any site other than a board-owned facility with available parking.

The workday of the bus operator or transportation aide will commence at the bus at the designated beginning work station and will not end until the employee is able to leave the bus at the designated beginning work station, unless the employee agrees otherwise in writing.

**SB 765** passed unanimously to the floor and was passed by the Senate on March 1. Another bill taken up and passed out of committee was **Senate Bill 53**, a bill that, after being amended, provides for one nurse for every 1,000 students, Pre-K-12.

Funding for the extra nurse positions was discussed in committee but was not in the bill until it was amended by Senate Finance Chairman Walt Helmick, D-Pocahontas, on the Senate floor Wednesday. The salary provision appears adequate, as it provides for an appropriation from the general revenue fund an amount sufficient to distribute to each county board an amount determined by multiplying the additional number of school nurses required in each county on a full-time equivalency basis by that county's average state-minimum-funded salary.

It further funds an additional amount for fixed charges and an additional amount for the Public Employees Insurance Agency computed by multiplying the number of nurses determined above by the average premium rate for all county board of education employees.

*In my opinion, the grievance procedure could be streamlined to only two steps: A hearing with the chief administrator and an appeal to an unbiased party.*

## ADMINISTRATIVE PERSPECTIVE

*continued from page 17*

The bill passed the Senate and has gone to the House. The final bill you may find interesting is **Senate Bill 666**, which allows accumulated sick leave to be used as paid family leave. It also passed the Senate and now is in the House.

That was the end of Tuesday. Senate Finance announced a meeting at 3 p.m. on Wednesday to take up several bills. **SB 417** was likely to be on the agenda and several organizations were involved in trying to influence senators to block passage of the bill.

It passed out of committee without a dissenting vote to the floor of the Senate on second reading. Although this was disappointing to me, I sat in on the Senate floor session at about 4:45 p.m. Because this was the 50<sup>th</sup> day of the Legislature, bills had to be passed by their house of origin on this day or they could not be sent to the other house.

**SB 417** was on second reading and a bill has to go through three readings before it can be passed. This requires a suspension of the rules that require a bill to be read on three separate days. As bills that were on first or second reading came up, the established procedure was for Senate Majority Leader Truman Chafin, D-Mingo, to make a motion to suspend the rules.

This motion has to be voted on and the vote is recorded. There were a few bills that did not get the required four-fifths vote to suspend the rules and they were, for all practical purposes, dead. **SB 417** was read a second time, amended and then there was silence.

No motion to suspend the rules was made. I thought, "Well, the bill is dead!" But I remained to the bitter end, just to make sure.

After considering several other bills, Sen. Chafin requested

## Top 10 reasons I became a school administrator

*Compiled by American Association School of Administrators Executive Director Paul Houston*

10. Love waking up at 3:30 a.m. to see how much it has snowed.
9. Always wanted to work for seven (*five*) people with 14 different opinions.
8. My positive self image was getting out of hand.
7. All the helpful ideas from politicians and business leaders.
6. Love to be surrounded by people holding picket signs telling me that my parents weren't married.
5. Always wanted to meet someone from "60 Minutes."
4. Enjoy the challenge of having responsibility with no authority.
3. Wanted a job where even my family can tell me what I did wrong.
2. Great pay—great hours—great job security.
1. The opportunity to have a greater impact on the lives of children.

that the Senate return to consideration of **SB 417**. He moved the rule be suspended and the vote failed 24 to 10.

As one of the senators later told me, "Don't question what happened. The resulting outcome is all that matters!"

— *Dean is a former county schools superintendent, serving in Webster and Wetzel counties. She also has served as a Regional Educational Service Agency executive director and she has a doctorate in educational administration.*

## IN BRIEF

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radio program before a news conference in which he called on lawmakers to address the 6-percent raise they're proposing.

"We have people down here lobbying everyday, representing teachers and service professionals and everybody in this capitol is in favor of a teacher pay raise when they're talking to those individuals. Now, because there are so few people out there that are in control of the legislative session, it does make a difference what they think."

The WVEA has pushed for the 6-percent pay raise throughout the legislative session but there has been little movement on the proposal. A bill that would increase beginning teacher salaries in the state \$1,500 has more promise.

"That still will not be enough to keep us up with other states," Delauder said.

House Education Committee Chairman Tom Campbell, D-Greenbrier, had sponsored the \$60 million bill, which he said he sponsored to keep teacher pay on the discussion list even without a plan to pay for it.

But Delauder said there is a way to pay for it. "If you've got that kind of surplus, education has to be your priority."

The Legislature last year approved a \$1,350 raise for teachers.

## Graham's wife can keep her job

Kanawha Circuit Judge Charles King on Wednesday ruled that se-

nior center executive Bob Graham's wife can keep working for the Wyoming County Council on Aging. He ordered Graham to return a company computer he kept in his home, but left open how much paid leave Graham should get.

Graham is on extended leave from the Council on Aging. He was indicted Jan. 26 on federal charges of embezzlement and fraud.

In February, the state Attorney General's Office filed for a temporary restraining order against Graham to prevent him from running the business while he is on leave.

The state also contended that Graham could influence operations through his wife, Carol, and asked that she be placed on paid leave until Graham's legal situation is resolved.

Senior Deputy Attorney General Silas Taylor argued that Graham should have earned only three days of paid leave per month, as specified in the company's policy and procedures manual, and that allowing him to accumulate 4.5 days per month, as stipulated in his contract, constituted unfair and illegal preferential treatment over other Council on Aging employees.

Taylor said that if the court used his numbers, Graham would not have any remaining paid leave.

King asked both sides to submit their calculations and reasoning in writing, and he would decide the correct amount. If convicted of the 21 federal charges, Graham faces 112 years in jail and fines of up to \$5.25 million.

*Sources: The Charleston Gazette, Charleston Daily Mail, West Virginia MetroNews and WVSBA reporting*

# We can do more to stop youth tobacco use

## *Lack of funding and local commitment stunting impact*

*By Carlene Frederick, Vice President  
West Virginia School Boards Association*

In today's world there are so many health and safety issues facing our children that we are becoming an unhealthy society.

We are faced with obesity problems, violence, drugs and alcohol abuse and tobacco use and addiction. Educators and parents have recognized the need for interventions and have implemented some counter programs, but not nearly enough.

Knowing that students cannot do well in school if they don't feel well, Gov. Manchin has stated that changes are coming soon in healthy lifestyle programs.

In the early 1990s funding became available through grants for tobacco prevention in the schools. In Calhoun County, a spin-off committee from the Family Youth Coalition, now Family Resource Network, wrote a grant for tobacco prevention.

I became the coordinator for that grant in 1994 and have worked ever since to keep children from starting tobacco use, helping users to quit, educating parents, merchants and the community about the dangers of tobacco usage.

I'm writing this in hopes that you will check out the tobacco prevention programs in your area. If your county or school does not have programs in place, maybe you can help initiate one. I know from working with youth, if a child is addicted to tobacco use, he or she cannot concentrate well in school.

The committee in Calhoun formed a tobacco prevention coalition and in 1995 we started a youth group called Student Coalition Against Tobacco, SCAT. There were six high school students when we organized but, before the year was out, membership grew to 45.

Their goals were to eliminate smoking in the bathrooms, change and enforce the school tobacco policy and to educate about the dangers of tobacco use. They accomplished their goals, but quickly realized that this was an ongoing process.

There have been many changes in the programs since I have been involved. There is no longer funding for local coordinators — it went regional about four years ago. There are six counties in our region and I was not interested in working full time, so now I volunteer to do programs in the schools.

There is a regional tobacco coordinator, and each Regional Education Service Agency (RESA) also has a tobacco prevention specialist. While the regional coordinator works with the adult co-

ordinations to do programs, the RESA tobacco prevention specialist works with the youth groups.

All the youth groups in West Virginia changed to one name in 2001. They all are now called RAZE, the West Virginia youth anti-tobacco prevention group, which is led by youth crew leaders.

The members do demonstrations to educate, which basically are demonstrations. Each local group has an adult adviser and, in Calhoun, I am that adult adviser.

The educational process in tobacco awareness and prevention has made such a difference the past 10 years. Youth usage has dropped dramatically, as it is no longer the cool thing to do.

I believe that continuing the programs have helped. We do little good when behavior change is involved if we start a program and

then discontinue it a few years later.

The tobacco settlement funds have helped to fund RAZE and other programs, but so much more could be accomplished if West Virginia had a comprehensive program in place. The funding we now have for these programs is not enough.

One of our big accomplishments in Calhoun

County is the alternative-to-suspension classes we started. The administration came on board for this program.

Instead of suspending students for tobacco use or possession at school, they are offered a tobacco awareness class. The students can stay in school and learn the dangers of tobacco usage.

Sometimes when they find out what tobacco companies don't tell them, such as the nasty and harmful things it can do to their bodies and health, so they quit using. We also offer a NOT (not on tobacco) program from the American Lung Association, which helps youth quit tobacco use.

There are programs out there that could help or could make a difference but a lack of funding and lack of people dedicated to the cause reduces the impact that could be made.

Tobacco use and addiction is killing, and it costs West Virginia as much as \$5.5 million a day, according to Bruce Adkins, director of the Division of Tobacco Prevention for the West Virginia Bureau for Public Health.

It's time we get concerned and get involved as board members and educators. Make a change for the better.

— *Frederick is president of the Calhoun County Board of Education.*

***Tobacco use costs West Virginia as much as \$5.5 million a day, according to Bruce Adkins, director of the Division of Tobacco Prevention for the West Virginia Bureau for Public Health.***

## ADA has literally opened doors for the disabled in today's world

*Social acceptance has come a long way, too*

By James Edward Dague, part-time staff  
House Education Committee

Have you ever considered going on a job interview, only to find when you get there, that the office is on the third story of a building that does not have elevators?

When you walk down a street, do you ever think about navigating curbs with high sidewalks? How about vacation planning? Do you have to consider where you can go, not based on the cost but rather if you will be able to get around?

Most of you probably have never considered these issues. However, these are very real concerns that people who have physical disabilities must face daily.

People who have disabilities have to consciously consider even the most basic moves. How many times have you had to think about how to walk from point A to point B? This happens every day for people who have disabilities.

The American landscape was altered with the passage of the Americans with Disabilities Act of 1990. We live in a free country but prior to the Americans with Disabilities Act, those with disabilities were not able to enjoy all the freedoms and wonderful things in our country. Their freedom was truly impaired.

The lives of those with disabilities dramatically improved beginning with this act. Following the act, physical barriers were reduced, technology has improved and social acceptance and vocabulary improved, all giving much more freedom to those Americans with disabilities.

Building access is one of the biggest areas of change since 1990. Architects now must consider elevators, the size of restrooms and ramps to enter buildings. It did not happen overnight but, over the past decade, so many doors have literally opened for those with disabilities. Museums, office buildings, churches and stores now are becoming more accessible for all Americans.

Technology is another area that has done so much more for those with disabilities. For example, the development of voice-recognition systems for computers has opened the door for careers for those with disabilities.

A physical disability does not impair a person's intelligence. Computers and keyboarding are a part of so many jobs today. For most people, it just requires simple training but for those whose hands are disabled, this is a brick wall that keeps them from doing so many things.

The inability to use computers was blocking so many from

entering careers and jobs that would benefit from their contributions. There are now laptop computers that can do the speaking for those who are voiceless. Hearing aids are becoming less noticeable to others but open the world of sound to the deaf.

Do you remember when you didn't see motorized carts in stores? How was it possible for a single person with a disability to get around a local grocery store? It is now possible because American businesses



James Edward Dague  
House Education Committee

***“There is not a greater thrill than to be on the floor of the House of Delegates, personally observing the history of our state in the making.”***

are providing these in their stores to enable those who can't walk long distances to go up and down aisles like any other shopper.

Each year, more advanced technological breakthroughs are doing so much for people with handicaps.

Social acceptance has also changed. The vocabulary of the public has improved since the ADA. The

term “crippled” is no longer socially acceptable. It is more appropriate to say “someone has a disability.”

If you are introducing a friend with a disability to someone please, do it by saying, “This is my friend, James.” Please put the emphasis on the friendship rather than the disability.

People with disabilities who once were not seen in cinema, television or on stage are now working side-by-side with other actors. By portraying parts of those with disabilities, they are raising social awareness of it. Even sale ads, store displays and catalogs are incorporating people with disabilities in their displays.

The Americans with Disabilities Act truly was the act of freedom for many Americans.

I was born into a family that loved, educated and taught me to love the Lord and to respect my fellow citizens. I am a third-generation member and former officer of a small town Presbyterian Church (USA) and received early development skills at the Easter Seals Rehabilitation Center in Wheeling, W.Va.

In growing up, my family and I had a good relationship with the

See **LAST WORD** on page 21

## LAST WORD

*continued from page 20*

teachers and administrators of the Ohio County School System. I graduated from Wheeling Park High School in 1988. Positive relationships with professors and college administrators continued during my college years at West Virginia Northern Community College (1993) and West Liberty State College (1995).

During my life, I have had the flexibility to practice extensive community service. The biggest challenge is organizing transportation. If it is a planned event, it is much easier; however, when emergencies arise, I cannot drive. Family and friends have always been there for me throughout the years.

I have a passion for government, history and genealogy. I have had the extraordinary privilege of being a part-time staff member with the West Virginia House of Delegates Committee on Education.

There is not a greater thrill than to be on the floor of the House of Delegates, personally observing the history of our state in the making. I love to speak in “legislative language.”

Lincoln said, “To this place and the kindness of these people I owe everything.” This is the way I feel about the West Virginia Legislature.

The delegates and the staff are some of the most modest and most outstanding people in human history. In government, you must always remember to represent the present and future citizens.

The 4-H program has a saying, “I pledge my heart to loyalty that may surely be a champion of justice for all humanity.”

People fail to realize that it only takes a brief moment to get a disability and, once you have one, you can never ever go back. I implore you to never take part in any extreme activity that may lead to a disability. People who have disabilities are members of a club that we never wish to see you join.

# County board personnel action deadlines

*(Always consult appropriate statutes for details)*

**Before April 3, 2006**, a service employee’s continuing contract may be terminated by unilateral written resignation of the service employee. *West Virginia Code § 18A-2-6.*

**Before April 3, 2006**, a service employee’s continuing contract may be terminated by a majority vote of the full membership of the county board, the termination to take effect at the close of the school year (as in a reduction-in-force). *West Virginia Code § 18A-2-6.* (See the statute for notice and hearing requirements which precede the vote.)

**Before April 3, 2006**, a teacher’s continuing contract may be terminated, effective at the close of the school year, by unilateral written resignation of the teacher. *West Virginia Code § 18A-2-2(c).*

**On or before April 3, 2006**, a teacher’s continuing contract may be terminated by a majority vote of the full membership of the county board, the termination to take effect at the close of the school year (as in a reduction-in-force). *West Virginia Code § 18A-2-2(c).* (See the statute for notice and hearing requirements which precede the vote.)

**On or before April 3, 2006**, the superintendent of schools must provide written notice to professional and service employees who are being considered for transfer. *West Virginia Code § 18A-2-7(a).* (See statute for time within which any statements of reasons must then be given and any hearing requests must then be made.)

**On or before May 1, 2006**, the superintendent of schools must provide the county board with a written list of all probationary teachers and probationary service per-

sonnel the superintendent recommends to be rehired for the next school year. The county board must act upon the superintendent’s recommendations at the same meeting. *West Virginia Code § 18A-2-8a.* (See statute for requirement of subsequent notice to probationary employees not listed and for provisions regarding subsequent hearings.)

**On or before May 1, 2006**, the county board must conduct a hearing for any employee who has requested one regarding a proposed transfer, and the superintendent of schools must furnish the board with a written list of teachers and other employees to be considered for transfer for the ensuing school year. *West Virginia Code §§ 18-5-4(a) and 18A-2-7(a),(b).* (See statutes for requirement of subsequent notice to such employees.)

**On July 3, 2006**, the county board must compile, update and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority. *West Virginia Code § 18A-4-7a(s).*

**If, before Aug. 1, 2006**, the reason for a particular employee reduction in force or transfer no longer exists as determined by the county board, the board must, with certain exceptions, rescind the action under the special rules of *West Virginia Code §§ 18A-4-7a(j)(4) or 18A-4-8b(k).*

**On or before Sept. 1, 2006**, the county board must (again) post current seniority lists for each service employee classification. *West Virginia Code § 18A-4-8g(c).*

*Provided by Bowles Rice McDavid Graff and Love, LLP*

## Sound Bites

**“Student teaching is the experience in college that let’s you know what you’re up against.”** — Del. Brady Paxton, D-Putnam, discussing a bill that would allow student teachers to practice their teaching in private, parochial or church schools.

**“If you look at this [property appraisal/assessment], it hasn’t been implemented in every area equally.”** — Senate Education Chairman Bob Plymale, D-Wayne, discussing **Senate Bill 570**, which relates to property tax assessment to fund public education.

**“What are we doing?”** — Sen. John Unger, D-Berkeley, discussing a bill that would bring Fairmont Community and Technical College “back under” Fairmont State University. Unger was objecting to the large bill and the fact, he said, there were several different ideas about the merger being discussed although the provisions weren’t reflected in the bill Senate Education Committee members had.

**“I got tired of taking them [at-risk juveniles] to prison for a family reunion.”** — Angie Senic, executive director of the Allredge Academy, a private Tucker County School for at-risk youth. Senic made her remarks to the House Education Committee on Thursday, saying that, to address the needs of these youth, policymakers tend to “treat the problem, not try to prevent the problem.”

## Meanwhile in California...

School officials in Riverside, Calif., have put a “chill” on two students’ plans to “wage a day” at their high school.

Two Ramona High School students were suspended for bringing snow to school after officials declared snowballs “dangerous.”

“Anything that disturbs...or disrupts...is inappropriate on a school campus,” said Principal Mike Neese. “Anything that could cause injury, or could cause a student to get upset and instigate a fight, or damage students’ personal property is just inappropriate behavior.”

Seniors Michael Sepulveda and Daniel Zavala made a predawn run to a resort area of the San Bernardino Mountains to fill their pickup trucks with snow and bring it to school for what they hoped would turn into an annual “Bring Big Bear to Riverside” ritual.

They were suspended after a school parking lot snowball fight before the start of classes last week.

According to the Associated Press, the two students were “stunned.” Zavala told the Associated Press, “The school overdid it. In the handbook it does not say, ‘Do not bring snow to school.’”

“It’s snow,” Sepulveda said.

One of the student’s mother, however, agreed with school officials, saying that, while the boys’ actions were harmless, “They’re [school officials] still there to mandate the rules, and they have to draw the line somewhere.”

- From the Associated Press

## The Legislature

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