



## Education groups soured by no pay raises

### *Promises of action next year don't ease frustration with this session*

By Jim Wallace

The legislative session is winding up in frustration and disappointment for those representing teachers and other education system employees, as well as for some lawmakers.

But Gov. Joe Manchin and legislative leaders hope they can be patient for more satisfying results next year after the state puts its financial affairs in better order.

"There is a lot of frustration because every year we're told, 'Just wait until we get some money and we're going to do the right thing by teachers,'" said Judy Hale, president of the West Virginia chapter of the American Federation of Teachers. "Well, we have money this year, and it seems that a lot of people are not willing to do the right thing."

The West Virginia Education Association also has expressed disappointment at the results of the legislative session, which ends Saturday night.

"You have a whole House and Senate full of folks who say that education is a priority and we haven't seen them do much to address those concerns," said Kym Randolph, WVEA's director of

communications. "There's always next year. That's the answer we're hearing from everyone."

Bob Brown, executive secretary of the West Virginia School Service Personnel Association, said his group also is frustrated.

See **GROUPS SOURED** on page 4

## Miss an issue?

### *Past editions easy to find on Web*

Some readers contacted us because they did not receive Monday's bill carryover edition of *The Legislature*. Not to worry!

We post *The Legislature* on our Web site as soon as it is available and maintain an online archive of past editions dating to 2001. Simply click on the "Publications" tab at [www.wvsba.org](http://www.wvsba.org) to access the free downloads.

## Overview

### STATS

Day of Session:	59
Days Remaining:	1
Bills Introduced:	2,301
(Includes 644 House Carryover Bills)	
Education Bills (WVSBA Count does not include House Carryover Bills):	403

### INSIDE

- Personnel sharing bill fails to get support.....2
- County board 'per diem' raise likely in 2007.....3
- Administrative Perspective.....5
- In Brief.....7
- Bill Abstract.....9
- Guest Perspective.....15
- Last Word.....17

### QUOTE

"*Fat 'possums travel late at night.*" – Former House Speaker Clyde See, D-Hardy, describing the waning hours of the typical West Virginia legislative session when the bulk of legislation is enacted. Legislators have said they often don't know the full content of bills they're scrambling to pass.

## Review of pending education bills

By Shawn Fluharty

This is an abbreviated list of pending Senate and House education bills as the 2006 regular legislative session approaches adjournment tomorrow night.

### Senate Bills

- **Senate Bill 53.** Provides a ratio of one nurse per every 1,500 students (net enrollment) in all grades; provides county boards reimbursement for these positions, though School Aid Formula Step VI funds are not provided ('fixed charges'). County boards having fewer than 1,500 students will see no additional nurses, but may be able to receive the acuity services. Amended to include provisions of House Bill 4398. Refer to the Feb. 16 issue of *The Legislature*.
- **Senate Bill 127.** Relates to Regional Educational Service Agencies (RESAs). Amended by the House Education Committee to fix RESA funding at \$4.2 million ("inside" the state School Aid

See **BILLS PENDING** on page 6

# Personnel sharing bill fails to gain support

## *Pleasants delegate calls bill 'duplication' of current law*

By Jason B. Keeling

Currently, county school boards can share administrative staff with contiguous counties or their respective Regional Education Service Agency (RESA).

**Senate Bill 620** would require that whenever county boards open a central office administrative position, they issue a written feasibility report to determine whether the sharing of administrative services with a contiguous county or RESA would be advantageous.

Although existing law permits counties to collaborate, the practice has rarely, if ever, been used. During Tuesday's House Education Committee meeting, Del. Otis Leggett, R-Pleasants, immediately characterized the bill as a duplication of current law, and expressed his disapproval.

The West Virginia School Boards Association supports the proposal as part of a three-year discussion of the issue, although perhaps not every school board member is on board, said Executive Director Howard O'Cull, Ed.D. He said the bill would help counties better evaluate staffing options, and identify the most responsible

administrative decisions about staffing to realize heightened student achievement.

"The ultimate thought is that this could lead to a savings of money," said House Education Chairman Tom Campbell, D-Greenbrier.

Del. Brady Paxton, D-Putnam, said the measure could increase efficiencies. "For a long time this committee has advocated expanded RESA capacity," Paxton said.

Legislative scrutiny of RESAs has increased this session because of the Beckley-based RESA's inability to account for \$1 million. Sources say influential House Education legislators did not want to give RESAs any expanded capacity, at least at this time.

Although the bill passed out of committee on a voice vote, it was removed from the House Special Calendar and placed on the Regular Calendar, which indicates it is less likely to be acted upon.

"The measure is dead for this session," O'Cull said. "It is my hope that it engendered some discussion about what is important in administrative staffing priorities, especially for small, struggling counties that have lost a lot of personnel to promote and provide enhanced support for increasing student achievement."

He believes WVSBA will continue to explore the issues, especially once the "dust has settled with situations involving one or two RESAs."

O'Cull contends only county board "demands" for different types of regional services, especially those that enhance student achievement, will "change the nature, force and complexion of RESAs."

"Either county boards do it, or the state Superintendent of Schools or state Department of Education will. That's what's flying around in some of these RESA bills," he said.

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

**The Legislature** is published by the West Virginia School Boards Association. It provides county board of education members, state policymakers, school administrators and the education community information and opinions regarding West Virginia legislative issues. The views expressed in this publication do not necessarily reflect official opinion or policies of the WVSBA, unless specifically stated.

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*"Truth conquers all"*

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## Utah score improvement defies funding

### *Maine spends twice as much, yet reading grades declined*

Schools spend fewer dollars per student in Utah than in any other state, but more fourth-graders there improved reading and math scores the past decade than in more than half the states.

Maine, for example, spends nearly twice as much on a comparable student population: \$9,300 a student versus \$4,800 in Utah. But fewer Maine fourth-graders improved their math scores, and their reading scores actually declined the past decade.

Both states ranked just above the national average on 2005 national reading and math tests, known as the National Assessment of Education Progress, or NAEP. But Utah stands out for its success in boosting the number of students to pass the tests since 1992, the first year of state-by-state NAEP testing, despite ranking dead last for spending.

*For more information, visit [www.stateline.org](http://www.stateline.org).*

## House amendment would make WVU Tech just West Virginia Tech

Members of the House of Delegates are making a second attempt to change the future of WVU Tech, adding a new amendment to a Senate bill Wednesday afternoon.

The new provision makes the Montgomery school a full division of WVU, but it returns the name to West Virginia Tech. The bill also guarantees Tech will keep its engineering school and other four-year programs, plus it makes funding for new buildings a priority.

That bill also would once again give Fairmont State University control of its community and technical college.

WVU Tech's future remains in limbo this legislative session. A bill that passed the House earlier remains in the Senate Education Committee, but Chairman Bob Plymale, D-Wayne, has yet to place it on the committee's agenda.

Note: The *Charleston Gazette*, in its March 10 issue, reports that a "compromise" has been reached regarding this legislation. The compromise has been brokered by the governor's office and legislative leaders.

*Source: West Virginia MetroNews, [www.wvmetronews.com](http://www.wvmetronews.com)*

## County board 'per diem' raise likely in '07

County board of education members may be in line for an increase in per diem pay when teacher and school employee pay increases are taken up – likely next year or possibly later this year in a special legislative session relating to tax reform.

Lawmakers say the latter possibility is remote, however, because it appears pay raises won't be considered until the 2007 regular session.

That means county board members should provide definitive proposals for a per diem increase in pay. According to a member of the House leadership, the West Virginia School Boards Association should shy away from proposals that give county board members a "salary-type" pay arrangement, which some WVSBA members have touted.

Legislators generally say board members "deserve" a pay increase but it should be tied to increases in other school employee

pay, rather than attaching a raise to legislation relating to county officials.

The above legislation seems to be "moving" toward passage by the Legislature, although at press time, there were two different proposals. One proposal would provide some county officials a \$10,000 pay increase funded with local dollars.

Another proposal would allow county officials to increase their pay by calling any increase a salary "supplement." Some officials question the constitutionality of that proposal, including Patti Hamilton, executive director of the West Virginia Association of Counties.

County board members last received a pay increase in 1998.

WVSBA did not take a position on pay legislation for the 2006 regular session, according to Executive Director Howard M. O'Connell, Ed.D.

***Legislators generally say board members "deserve" a pay increase but it should be tied to increases in other school employee pay.***

# GROUPS SOURED

*continued from page 1*

“We have a few small bills working, primarily to do with work rules, but the big issues seem to have fallen off of everyone’s radar screen,” he said.

Those big issues include pay raises, reform of the grievance process and relief from higher premiums for the Public Employees Insurance Agency.

For the West Virginia School Boards Association, the session is ending with a mixture of relief and disappointment.

“I think county boards played defense all session long,” said Howard O’Cull, WVSBA’s executive director. “Right out of the chute came a bill regulating school consolidation, which would have required the public to vote on any school closures.

“A lot of initial energy was spent trying to illustrate the complexity and complications had that bill passed.”

Then, he said, the association had to deal with a bill, previously unseen by the association, that would have inserted binding arbitration into the grievance process.

“We realized there are problems with the grievance procedure but this may not have been the best way to approach the issue,” O’Cull said.

That grievance reform bill, which Hale contended would have saved the state and county school boards money, died last week.

But the biggest issue for the teachers’ unions and school service personnel was the lack of a major pay raise bill at a time when the state has an unusually large budget surplus in the hundreds of millions of dollars.

Tempers flared Wednesday after Hale charged that Manchin killed a 3 percent pay raise package in a caucus of Senate Democrats and she further asserted that WVEA leaders agreed to defer the pay raise until next year. WVEA officials denied that allegation.

“We’re never going to leave any money that somebody would give us,” Randolph said. “There has been no discussion about a salary deal with anybody.”

Senate Education Chairman Bob Plymale, D-Wayne, also denied there was any deal with the WVEA about putting the pay raise bill off until next year, even though the bill was dropped from his committee’s agenda after the caucus.

“I don’t know there was a deal or anything,” he said. “There’s always been discussions. Every session, we’ve discussed pay raises for somebody. I don’t know of any deals, no.”

However, Plymale indicated he would have preferred to have moved on the pay raise bill but bowed to the will of his fellow Democrats.

“I personally would have liked to have done something as it relates to a pay raise,” he said. “But I’m convinced that we will address that in the next legislative session.”

## **Raises not on special session agenda**

Manchin said that’s what he wants to do: address pay raises in

the 2007 legislative session after a special session later this year deals with tax reform. He is more concerned during the current regular session with using some of the budget surplus to reduce the state’s huge liabilities in its pension funds and stowing some of it away in the Rainy Day Fund for the projected leaner years ahead.

“Last year, we put \$175 million into direct pay and compensation, and another \$200 million to \$300 million went into the pensions,” Manchin said. “This year, we’re committed to put over \$400 million into the teachers’ pensions. We’ve got to get our debt under control, and I keep saying, ‘get our financial house in order.’”

The special session also will deal with changes in PEIA that could address the concerns of teachers and other public employees about the rising cost of premiums. Manchin calls PEIA “horrible right now and it’s costing too much for everybody.” He said he hopes to “change the whole dynamics of what we’re doing” both with PEIA and the tax system, although he acknowledges that won’t satisfy those who want pay raises now.

“I know there’s frustration,” Manchin said. “How about the person who’s working out there that hasn’t seen an increase in their paycheck? How about the person who has lost some of their benefits package just to keep their job? That’s everywhere across the

board, and we’ve got to balance the whole thing. That’s my responsibility, and I’m trying to do the best I can to be fair to everybody.”

## **Many feel more could be done with budget surplus**

Speaking Thursday in the Capitol Rotunda as he signed autographs for a group of fourth-graders, the governor asked them to indicate if they plan to stay in West Virginia after they get

out of school. After some raised their hands and some didn’t, he said, “I’ve got to give these kids reasons to stay here.”

Asked if the special session might include consideration of pay raises, Manchin said, “That’s not what our intent is. Our intent is just to work for tax reform and then come back next year because we’ll have a complete, better handle on what we have and don’t have and surely what our benefits are.”

But that’s not good enough for labor representatives.

“I think we can have our cake and eat it too,” Brown said. “We’re sitting on maybe as much as half a billion dollars in surplus. Now I’m not suggesting that we blow that \$500 million, but I think there is enough money there to give some salary increases, deal with the pension issues and still put some away in the Rainy Day Fund. That \$500 million is a lot of money.”

Hale predicted the result of waiting would be more classrooms without teachers certified in science, math and other subjects.

“The teachers are clearly left behind again,” she said. “We’re 47<sup>th</sup> in the country in average pay. We are not competitive with any state around us, including Kentucky, who I think is going to give another raise.”

Senate Minority Leader Vic Sprouse, R-Kanawha, said teachers should be frustrated. He agrees with Brown that there’s enough

*See GROUPS SOURED on page 6*

***“You have a whole House and Senate full of folks who say that education is a priority and we haven’t seen them do much to address those concerns.”***  
**— Kym Randolph**  
**WVEA director of communications**

## Education committees move bills to floor

### *Rumors about teacher pay raise fail to materialize*

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

This last week of the Legislature has been devoted to cleaning up bills and getting them through committees and onto the floor of both houses. Education and Finance Committees are meeting frequently and usually taking up several bills.

The House Education Committee met Monday afternoon and took up several bills. The first was **Senate Bill 784**, which would allow teachers to use professional development for renewal in lieu of semester hours of credit from an institution of higher education.

It also provides for permanent certification upon achieving National Board of Professional Teaching Standards certification.

There were a couple questions regarding the permanent certification section but the answers satisfied the committee, as it passed the bill unanimously.

The second bill was **Senate Bill 785**, which is related to school physical education requirements. It changes the reference in the law to the requirements to programmatic levels (i.e. elementary, middle, etc.) instead of specific grade levels. It further provides that body mass index measures can be only a scientific sample rather than all children being measured. And, it finally allows alternate programs to be approved if justifiable. The bill passed, but not unanimously, out of the Education Committee.

House Education then took up **Senate Bill 53**, which changes the ratio of school nurses to enrollment. The bill would add 71 additional nurses and the additional money in the School Aid Formula to pay for them. The bill passed unanimously out of Education and went to Finance.

The House Finance Committee on Tuesday changed the bill to the language of **House Bill 4398**, with the exception of the provision that would allow boards of education to contract with "health care agencies" instead of just county health departments. Thus, **SB 53**, as changed, was passed out of House Finance to the floor of the House, where it was on third reading on the Special Calendar for Thursday.

**Senate Bill 18** grants tuition waivers to children and spouses of parole and probation officers killed in the line of duty, has little cost, and affects only a few people in the last several years. It passed, but not unanimously, and goes to House Finance.

**Senate Bill 32** relates to educational opportunities for children of military personnel. They did a strike-and-insert amendment to insert the language from **House Bill 4049** (relates to Promise Scholarship and other issues), and it passed out unanimously. The final bill on Monday was **Senate Bill 587**, which relates to increment pay for higher education faculty, passing out to finance, but not unanimously.

On Tuesday, both Senate and House education committees met. Senate Education passed out several bills, including **House Bill 4038**, which provides that surplus computers can be donated and transferred to county boards of education. Some were skeptical about the number of available computers and the usefulness of them to schools, but the bill passed out, but first to finance.

*House Bill 4689, which relates to beginning teacher salaries, was amended so that the increase in pay for beginning teachers is in the form of a bonus. Teachers with no experience get \$1,250; one year, \$1,000; two years, \$750; and three years, \$500.*

**House Bill 4625** relates to giving assistant principals, etc., the authority to discipline students. The bill was amended by redefining the term "principal" to include assistant principal, vice principal, administrative head and designee. This bill passed out to the floor of the Senate, where it was on second reading Wednesday.

**House Bill 4126** relates to the retention of seniority to seek re-employment of professionals who have voluntarily terminated their employment with the board of education. This bill was amended to limit the number of years they could hold on

to their seniority to 15 years and clarified that it only refers to those who were not under investigation regarding alleged misdoing. **HB 4126** passed but has to go to Senate Finance.

**House Bill 4544** allows more teachers to be reimbursed for approved course work and was passed out but has to go to Finance.

**House Bill 4626** would allow student teaching to occur in private and parochial schools. Sen. Vic Sprouse, R-Kanawha, amended the bill to require the State Board to study the feasibility of allowing home-school students to participate in sports programs at public schools.

The amendment passed and the bill was sent to Finance. Interestingly, when the bill came up on the Senate Finance agenda Thursday morning, Senate Education Chairman Bob Plymale, D-Wayne, spoke against the amendment being in this bill, as it is not germane to the main purpose of the bill.

Senate Finance removed that amendment from the bill before passing it out to the floor of the Senate. Sen. Sprouse was not in the

See ADMINISTRATIVE PERSPECTIVE on page 10

## GROUPS SOURED

*continued from page 4*

money to pay down the pension debt, give a boost to the Rainy Day Fund and to give teachers and other public employees higher pay.

"I find it difficult to give raises to other officials – to principals, to county officials, to everybody else except teachers," he said. "It's not right in a year when it could be done. I understand there are certain years when you just don't have the money there to be able to give raises. I think the teachers understand that. But whenever you're looking at hundreds of millions of dollars in surplus, \$1 billion in the last couple of years, and putting money over into the Rainy Day Fund of hundreds of millions of dollars, I think that if I was a teacher, I'd be infuriated."

### **Staton: Always frustration, but session not a failure**

House Majority Leader Rick Staton, D-Wyoming, said there is always frustration over pay raises no matter what the Legislature does. But he thinks teachers' unions should be pleased that lawmakers at least are poised to increase the level of pay for beginning teachers.

"I don't think you're ever pleased that you got enough of a pay raise," Staton said. "But should they be upset and call the session a failure? No, I think that would be unfair, too."

The increase in entry-level pay is a "start in the right direction," Randolph said. "While I don't discount that, it's not through yet."

Staton also said he's hopeful that, during the extended session next week to work on the state budget, lawmakers will offer some

relief on PEIA premiums. Brown said he understands that legislation might cut the premium increase in half for a year, but that's not very satisfying for public employees.

"It's not a long-term solution," Brown said. "It's a quick fix."

House Minority Leader Charles Trump, R-Morgan, is mainly disappointed in the possible loss of legislation that would allow county school boards to keep more local levy dollars and give the high-growth counties in the Eastern Panhandle more of a chance to increase teachers' pay to be competitive with school districts in Virginia and Maryland.

"There still is some possibility that a bill that addresses that in some fashion may be considered," he said. "That would give counties the mechanism to address some of these problems. They could do county salary supplements that would help address the problems that exist in salaries."

O'Cull said the School Boards Association sees the current session the same way many others associated with education do: "Deferring some heavy lifting to 2007 or the special session in the summer. I've been around this for 29 years, and every so often, a legislative session produces considerable group frustration. That's where we are today."

— *Jim 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.*

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## BILLS PENDING

*continued from page 1*

Formula) unlike the Senate Bill which states that the agencies' funds are subject to "legislative appropriation." The House Education Committee retained a RESA study that will be conducted by the state Superintendent of Schools, although language was removed from the Senate Bill concerning proposals to determine services the State Department of Education and county board could assume if RESAs were eliminated. The bill has been referred to the House Finance Committee. There is speculation the measure will die there, with the House adopting a RESA study resolution instead.

- **Senate Bill 570.** This legislation relates to "fairness and equity" in property taxation for public schools. The complex, multifaceted bill is being considered today by the House Education Committee. The conventional legislative wisdom is that the measure will die in the House of Delegates this session and possibly taken up in a special legislative session later this year or next year as part of a planned two-year legislative study relating to school funding in West Virginia.
- **Senate Bill 633.** Addresses critical shortage areas for teachers, defining critical shortage area as a county in which either the percentage of teacher vacancies to total teaching positions is twice the statewide percentage, the enrollment has increased at least one percent, or net enrollment has increased by 50 or more during any three of the last five years. Counties also would be able to have "subject matter critical shortage areas" and can then get allocations to help them with recruitment.
- **Senate Bill 784.** Concerns allowing teachers to use West Virginia Department of Education professional development for

renewal in lieu of semester hours of credit from an institution of higher education. It also provides for permanent certification upon achieving National Board for Professional Teaching Standards certification.

- **Senate Bill 765.** Relates to start of workday for school service personnel.
- **Senate Bill 782.** Concerns the West Virginia READS grant program.
- **Senate Bill 783.** Addresses National Board for Professional Teaching Standards certification, providing lifetime certification (West Virginia renewal) for teachers who have NBPTS certification.
- **Senate Bill 785.** Relates to physical education requirements in the public schools, referring to specific programmatic levels such as elementary, middle and high school, instead of specified grade levels per se, in determining PE requirements. Also addresses issues regarding collection of body mass index data so that student identities will not be compromised, and that BMI measures would be a scientific sample rather than each student being measured. Additionally, the bill allows for approval of alternate physical education programs if there is sufficient justification.

### **House Bills**

- **House Bill 2338.** Provides precedential status to written advisory opinions issued by the state Ethics Commission's Committee on Open Governmental Meetings. The bill has been considered for several years.
- **House Bill 4038.** Relates to donation and transfer of surplus personal computers and other information systems and tech-

*See BILLS PENDING on page 8*

## Republicans dismiss Logan's Law costs

A bill known as "Logan's Law," which would lengthen sentences for sexual predators, would cost West Virginia taxpayers at least \$90 million a year, according to fiscal information received by the Senate.

Some estimate the cost could be twice as much or more.

The costs may be attributed to an amendment to a bill that essentially emphasized registration and increased monitoring of sexual predators. The original proposal was backed by Gov. Joe Manchin, but Senate Minority Leader Vic Sprouse, R-Kanawha, offered the "Logan's Law" amendment – which generally doubles prison terms for sex crimes. State senators concurred, although admittedly not knowing bill costs at the time.

The bill is named for 2-year-old Logan Shane Goodall, who was beaten and sexually abused before his death last fall in Putnam County. The amendment proved popular with democrats and republicans, especially as reflected in the 17 related bills that have been introduced.

Doubts about the bill's viability arose when legislative leaders discovered its potential costs. Republican lawmakers scoffed at the financial criticism, rushing to defend the bill.

Sen. Russ Weeks, R-Raleigh, questioned how the fiscal note was calculated. "We cannot worry about cost when we're protecting children."

Sprouse contends the fiscal note is designed to kill the legislation.

He called on colleagues to ask constituents how much more they would be willing to pay to double sexual predators' prison terms.

"Don't let the House and the Governor's Office sway you [against the bill]," he said.

Sen. Clark Barnes, R-Randolph, was the lead sponsor of the legislation increasing penalties for sex offenders. In doing so, he noted that he modeled his legislation after laws in South Carolina and Kansas.

At press time, the legislation was not finalized.

## Bill encourages veterans to visit schools

Although at press time it was lodged in the Senate Education Committee, the House of Delegates has adopted a measure that would encourage veterans to visit public school classrooms to discuss their experiences in combat, the Armed Forces, and military service.

**House Bill 3019** was attached to a similar bill that would encourage artists to visit the public schools.

## Teen cell phones and driving

The Legislature is poised to adopt a bill that prohibits drivers under age 18 from using handheld devices until they need to dial 911.

Sen. Vic Sprouse, R-Kanawha, was the lone dissenter, saying he feared the bill would put a "further push" on efforts to ban use of cell phones by all drivers.

The measure applies only to drivers with a learner's instructional permit or provisional driver's license.

A carryover bill from last year prohibiting the use of cell phones while driving died in the Senate Transportation Committee this year.

## Budget Digest gone

With one lone vote against the measure, the Senate joined the House of Delegates in effectively eliminating the long-praised (or cursed) Budget Digest.

Sen. Donna J. Boley, R-Pleasants, voted against the measure, saying the House leadership effectively killed the proposal – or at least placed it in a negative light – because that body's funds were not distributed equally among members.

The Digest has been controversial, facing three major legal challenges since 1991. The state Supreme Court has upheld the legality of the Digest, but said the process by which it was developed should be more open and acted upon in public meetings, with documentation to show how digest requests were approved.

In 2004 — the current Budget Digest case — challengers alleged budget conferees essentially have ignored previous Supreme Court rulings to make the process more fair and open.

Last year, facing a court order that temporarily blocked preparation of the Budget Digest, budget conferees included about \$10 million of what traditionally had been Digest spending items into the budget bill itself.

In a late-1990s meeting of Southern legislative leaders, West Virginia lawmakers touted the Digest process, which was unique to legislatures in these states, according to news media accounts at the time.

## Eminent domain

The Washington-based Institute for Justice said legislation aimed at addressing eminent domain would allow government entities to seize private property for private development projects – the very thing eminent domain legislation aims to break – by declaring it a slum or blighted area.

Sen. Brooks McCabe, D-Kanawha, however, counters that the "urban blight" provision is intended to be used very rarely.

"We were looking at it as an important tool to be used very rarely in cases where there's slum and blight, but only public programs and not [for] private economic development," he told *The Charleston Daily Mail*.

Foes of the legislation contend cities will be able to use the provision to condemn property.

"Courts routinely defer to legislative determinations about public use and economic development," according to the Institute for Justice's Steven Anderson, who spoke at a recent legislative public hearing.

A libertarian advocacy group, the institute represented Connecticut homeowners in their successful U.S. Supreme Court case against the city of New London.

Officials there sought to force the homeowners to sell their property for a private riverfront economic development project.

At least 45 states have taken up the high court on a finding in its decision that said states were free to restrict the New London-type eminent domain approach.

According to Anderson, at least 45 states are working on this type legislation, although he said the legislative approaches have been "mixed."

See **IN BRIEF** on page 14

## BILLS PENDING

*continued from page 6*

nologies for educational purposes. Some legislators have concern about the number and “kinds” of computers that can be donated.

- **House Bill 4077.** Provides a state minimum salary supplement for professional personnel holding a nationally recognized professional certification in speech-language pathology, audiology, or counseling.
- **House Bill 4126.** Concerns retention of seniority for the purpose of seeking re-employment for professional employees whose county board employment was voluntarily terminated. The provision is applicable for 15 years only, with a number of restrictions, including provisions that the employee voluntarily terminated his or her contract without misconduct or that he or she is not under investigation for such an offense if seeking the reinstatement.
- **House Bill 4393.** Relates to providing county boards funds for projected increases in fuel costs.
- **House Bill 4406.** Concerns removing the requirement that teachers be evaluated every three years.
- **House Bill 4447.** Authorizes county boards to lease school buses for transportation associated with fairs and festivals and other educational or cultural events. Board buses could be leased to private or public organizations as long as county-employed bus drivers operate the vehicles and the lessee agrees to pay all costs involved with the lease. Another bill component stipulates that vehicles carrying 10 or more passengers must be driven by someone who is certified in safety and training. They also must have a background check, as required by the West Virginia Board of Education.
- **House Bill 4518.** “Corrects” a state Education and State Employees Grievance Board decision regarding school service personnel seniority.
- **House Bill 4544.** Allows more teachers to be reimbursed for approved course work. Fee reimbursement is limited to six semester hours of coursework per teacher per certification renewal period and 15 semester hours for their lifetime. Those persons seeking certification in a shortage follow the same rules on a yearly basis; however, there is no limit on the number of hours that can be accumulated in their lifetime. A change in the bill through securing additional required hours of training as provided by the bill removes the 75 percent limit that currently caps the total reimbursement. Teachers would receive full reimbursement for costs incurred. There are other provisions.
- **House Bill 4546.** Continues additional compensation (NBPTS) for persons subsequently employed as principals and assistant principals (and central office personnel).
- **House Bill 4578.** Extends the expiration date of provisions permitting retired teachers to accept employment as substitute teachers (areas of critical needs and shortages) for an unlimited number of days without affecting retirement benefits.
- **House Bill 4623.** Relates to reports of inspections of schools by local boards of health. Lodged in Senate Education Committee. The measure has died in the Senate the past several years.
- **House Bill 4625.** Extends authority to professional personnel designees of school principals. Addresses a Hancock County Circuit Court case. (This case involved disciplinary measures taken by someone other than the school principal.) The Senate

Education Committee added language that would to allow only vice principals/assistant principals, administrative head, and designee to have this authority. The bill was amended by redefining the term “principal” to include assistant principal, vice principal, administrative head, and designee.

- **House Bill 4626.** Includes private schools, parochial schools, church schools and other schools operated by a religious order in the state student teaching programs. Those persons wishing to conduct their student teaching can do so in certain instances. Solely performing in only a private school will not suffice, meaning a student would have to accumulate 200 field hours of experience in a public school and take various courses regarding the public rules, regulations, laws and procedures, in addition to completing their student teaching in a private school.
- **House Bill 4689.** Provides an increase in beginning teachers’ salaries. Senate Finance amended so that the increase is a “bonus.” According to WVDE officials and county finance officers, this approach will make the payments easier to process. Teachers with no experience get \$1,250; those with one year get \$1,000; two years, \$750; and three years, \$500 bonus added to their basic salary.
- **House Bill 4785.** Allows school service personnel the opportunity to vote on giving preference to employees from a merged school.

For information regarding the calendar status of these bills, refer to the Bill Abstract on page 9.

This list is not exhaustive. It is compiled given available information about bill provisions. In many instances, “final” language is not available until sometime after the session is concluded.

— *Fluharty is an intern with Charles Ryan Associates, a Charleston public relations firm. He recently was accepted into the West Virginia University College of Law.*

## 2006 Legislative Calendar

- ✓ **1<sup>st</sup> Day** – Jan. 11: Second Regular Session 77<sup>th</sup> West Virginia Legislature Convened/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*

# 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 the Senate Government Organization Committee, then the Senate Finance Committee. On second reading to Senate Finance 3/8/06.

**Senate Bill 13** – Requiring cross-reporting of suspected abuse or neglect of individuals or animals (Yoder, lead sponsor). Passed Senate 1/24/06. Passed House 3/8/06.

**Senate Bill 18** – Granting tuition waivers to children and spouses of parole and probation officers killed in the line of duty (Bailey, lead sponsor). Passed Senate 3/1/06. Referred to the House Education Committee, then the House Finance Committee 2/24/06. Third reading, House Calendar 3/9/06.

**Senate Bill 32** – Relates to educational opportunities for children of military personnel (Hunter, lead sponsor). Passed Senate 3/1/06. Referred to House Education, then House Finance. Committed to House Finance 3/6/06.

**Senate Bill 49** — Allowing county boards of education to enter into lease-purchase agreements (Hunter, lead sponsor). Senate Education approved Committee Substitute 2/10/06. Referred to Senate Finance on 2/10/06.

\***Senate Bill 53** – Changing ratio of school nurses to enrollment. (Hunter, lead sponsor). Passed Senate 3/1/06. Passed House 3/9/06.

**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. Referred to House Roads and Transportation 2/6/06.

**Senate Bill 107** – Relating to venue for certain suits against state (Chafin, lead sponsor). Passed Senate 3/1/06. Referred to House Judiciary. House Judiciary approved with recommendation 3/8/06. Recommitted to House Judiciary 3/8/06.

\***Senate Bill 114** – Relating to teen court program fees (Kessler, lead sponsor). Passed Senate 2/28/06. Passed House 3/6/06.

**Senate Bill 127** – Relating to regional education service agencies (Tomblin, lead sponsor). Passed Senate 3/1/06. Referred to House Education, then House Finance 3/2/06. House Education approved 3/2/06. Committed to House Finance on second reading 3/8/06.

**Senate Bill 187** – Requiring uniforms for public school students (Chafin, lead sponsor). Referred to Senate Education 1/17/06. (Tabled by Senate Education).

**Senate Bill 205** – Relating to the sex offender registry (Tomblin, lead sponsor). Passed Senate 3/1/06. Referred to House Judiciary, then House Finance. Recommitted to House Judiciary on second reading 3/8/06.

**Senate Bill 206** – Relating to floodplain management and flood debris cleanup (Oliverio, lead sponsor). Passed Senate 3/1/06. Referred to House Judiciary, then House Finance.

\***Senate Bill 219** – Changing expiration date of graduated drivers licenses; prohibiting cell phone use by certain minors (Foster, lead sponsor). Passed Senate 3/1/06. Passed House 3/9/06.

**Senate Bill 236** – Expanding definition of child abuse to include parental alcohol and substance abuse (Prezioso, lead sponsor). Passed Senate 2/20/06. Referred 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. Referred to House Government Organization, then House Judiciary. House Judiciary approved 3/7/06. Removed from Special Calendar 3/9/09.

**Senate Bill 370** – Creating personal property tax exemption for farm equipment and livestock (Helmick, lead sponsor). Passed Senate 2/1/06. Passed House 2/13/06.

\***Senate Bill 371** – Reducing severance tax on timber (Helmick, lead sponsor). Passed Senate 2/1/06. Passed House 3/8/06.

**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). Referred to Senate Health and Human Resources, then Senate Education, then Senate Judiciary. Referred to Senate Judiciary 2/10/06.

\***Senate Bill 415** – Relating to credit card solicitations on college campuses (Chafin, lead sponsor). Passed Senate 3/1/06. Passed House 3/9/06.

**Senate Bill 428** – Providing uniformity in purchasing card procedures (Minard, lead sponsor). Passed Senate 3/1/06. Referred to House Finance 3/2/06.

**Senate Bill 442** — Changing expiration date of graduated driver’s license (Kessler, lead sponsor). Passed Senate 2/3/06. Referred to House Roads and Transportation, then House Judiciary 2/6/06.

**Senate Bill 483** – Providing confidentiality of circuit court records involving guardianship of minors (Kessler, lead sponsor). Passed Senate 2/7/06. Passed House 3/9/06.

\***Senate Bill 489** – Authorizing state Treasurer to remit processing and e-government services to political subdivisions (Chafin, lead sponsor). Passed Senate 3/1/06. Passed House 3/8/06.

**Senate Bill 517** – Requiring multidisciplinary treatment team for certain juveniles (Foster, lead sponsor). Passed Senate 3/1/06. Referred to House Judiciary, then House Finance. Passed House Committed to House Finance 3/7/06.

**Senate Bill 519** – Relating to parental notification requirements for abortions performed on un-emancipated minors (Prezioso, lead sponsor). Passed Senate 3/1/2006. Referred to House Judiciary 3/2/06. Motion to discharge from committee failed 3/7/06.

**Senate Bill 545** – Relating to workers’ compensation benefits for schools personnel (Plymale, lead sponsor). Referred to Senate Education 2/9/06.

**Senate Bill 570** – Relating to fairness and equity in public school finance (Plymale, lead sponsor). Passed Senate 3/1/06. Referred to House Education, then House Finance. Recommitted to House Education on second reading 3/8/06.

**Senate Bill 587** – Relating to increment pay for certain higher education faculty (Edgell, lead sponsor). Passed Senate 3/1/06. Referred to House Education, then House Finance. Recommitted to House Finance on second reading 3/8/06.

**Senate Bill 598** – Relating to Teachers Retirement System’s qualified plan status. Passed Senate 2/28/06. Referred to House Pensions and Retirement. Recommitted to House Finance, second reading 3/8/06.

See **BILLABSTRACT** on page 11

## ADMINISTRATIVE PERSPECTIVE

*continued from page 5*

room at the time “his” amendment was struck.

The last bill taken up in Tuesday’s Finance Committee meeting was **House Bill 4785**, which would allow school service personnel the opportunity to vote on giving transfer preference to employees from a merged school. This bill passed, but not unanimously, and was sent to Finance.

Tuesday’s House Education Committee morning agenda included three bills. The first was **Senate Bill 620**, which is related to consolidating administrative services by boards of education and Regional Education Service Agencies. It would allow cooperation and sharing of services as the county boards see fit.

There was considerable discussion and the bill passed, but not unanimously, to the floor of the House, where it is on second reading as of Thursday.

**Senate Bill 633** addresses critical shortage areas in teaching, and defines critical shortage area as a county in which either the percentage of teacher vacancies to total teaching positions is twice the statewide percentage; the enrollment has increased at least one percent; or net enrollment has increased by 50 or more during any three of the last five years.

Counties also can have “subject matter critical shortage areas” and can then get allocations to help them with recruitment. This bill was passed out to Finance.

On Wednesday afternoon, House Education passed out **Senate Bill 127**, which relates to RESAs, and now goes to Finance. The committee amended the bill and kept the provision for a study by the State Board but provided that RESAs be funded through the State Aid Formula, but capped at \$4.2 million.

The other two bills were higher education bills. **Senate Bill 792** elicited a great deal of discussion about whether to recombine the community college with Fairmont State University. This provision passed after the discussion and amendments.

On Wednesday, rumors surfaced about a bill to be brought out during the Senate Education Committee meeting. There was a meeting between the governor and the leadership in the Senate Finance Committee room as we waited for that meeting to end and Senate Education to meet.

The rumor was that teachers were going to get a raise. However, after the governor left and senators went about other business, the Senate Education Committee only took up two bills and did not mention a pay raise, although the press was there and spoke to American Federation of Teachers officials after the committee meeting.

Senate Education met briefly and passed out only two bills, **House Bill 4447**, which allows school boards to lease buses to community groups provided they are driven by certified bus operators, and **House Bill 4518**, dealing with substitute service personnel who do not acquire regular employee seniority even when in a long-term position.

Both committees met Thursday, and Senate Finance passed out **House Bill 4689**, which relates to beginning teacher salaries. It was amended so that the increase in pay for beginning teachers is in the form of a bonus.

Teachers with no experience get \$1,250; one year, \$1,000; two years, \$750; and three years, a \$500 bonus added to their basic salary. Senate Finance also passed to the floor **House Bill 4406**, removing the requirement to evaluate experienced teachers, and

**House Bill 4578** which would allow retired teachers to substitute up to 180 days without affecting their retirement benefits.

They also originated a resolution requesting a study of pilot teacher induction programs in Jefferson, Morgan, Berkeley and Hampshire counties. Then they worked on **House Bill 4690**, and agreed to make WVU Institute of Technology a division of West Virginia University.

The final meeting I attended Thursday was House Education, where they passed **Senate Bill 765**, relating to the start of the workday for school bus operators and transportation aides.

They discussed at length **Senate Bill 570**, which would try to force assessors to meet the 60 percent fair-market assessment of all property, and thus increase the taxes collected for schools. The discussion was long and arduous, and assessors explained why they couldn’t do it. They agreed to work on the bill more on Friday. – *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.*

## 10 lessons arts teach

*By Elliot Eisner*

The arts teach children to make good judgments about qualitative relationships. Unlike much of the curriculum in which correct answers and rules prevail, in the arts, it is judgment rather than rules that prevail.

The arts teach children that problems can have more than one solution and that questions can have more than one answer.

The arts celebrate multiple perspectives. One of their large lessons is that there are many ways to see and interpret the world.

The arts teach children that in complex forms of problem solving purposes are seldom fixed, but change with circumstance and opportunity. Learning in the arts requires the ability and a willingness to surrender to the unanticipated possibilities of the work as it unfolds.

The arts make vivid the fact that neither words in their literal form nor number exhaust what we can know. The limits of our language do not define the limits of our cognition.

The arts teach students that small differences can have large effects.

The arts traffic in subtleties.

The arts teach students to think through and within a material. All art forms employ some means through which images become real.

The arts help children learn to say what cannot be said. When children are invited to disclose what a work of art helps them feel, they must reach into their poetic capacities to find the words that will do the job.

The arts enable us to have experience we can have from no other source and through such experience to discover the range and variety of what we are capable of feeling.

The arts’ position in the school curriculum symbolizes to the young what adults believe is important.

*SOURCE: Eisner, E. (2002). The Arts and the Creation of Mind, In Chapter 4, What the Arts Teach and How It Shows. (pp. 70-92). Yale University Press. Available from NAEA Publications.*

# Bill Abstract

*continued from page 9*

**Senate Bill 603** – Renaming day after Thanksgiving is Lincoln’s Day (Caruth, lead sponsor). Passed Senate 3/1/06. Referred to House Judiciary 3/2/06. House Judiciary approved without recommendation 3/8/06. Recommitted to House Judiciary.

**Senate Bill 620** – Relating to consolidation of administrative services by boards of education and regional education service agencies (Plymale, lead sponsor). Passed Senate 3/1/06. Referred to House Education. House Education approved March 7. Second reading House Calendar.

\***Senate Bill 631** – Relating to criminal school truancy complaints (Kessler, lead sponsor). Passed Senate 2/22/06. Passed House 3/8/06.

**Senate Bill 633** – Addressing certain teacher critical shortage areas (Plymale, lead sponsor). Passed Senate 3/1/06. Referred to House Education, then House Finance. Recommitted to House Finance, second reading 3/7/06.

**Senate Bill 634** – Exempts certain higher education development projects from Design-Build Procurement Act (Plymale, lead sponsor). Passed Senate 2/21/06. Referred to House Education 2/22/06. Recommitted to House Education 3/8/06.

**Senate Bill 635** – Requiring county boards to maintain flood insurance (Edgell, lead sponsor). Passed Senate 2/21/06. Passed House 3/8/06.

**Senate Bill 653** – Relating to duties of Chief Technology Officer; establishing Technology Infrastructure Fund (Tomblin, lead sponsor). Passed Senate 3/1/06. Referred to House Government Organization, then House Finance. Committed to House Finance, second reading 3/8/06.

**Senate Bill 666** – Allowing use of accumulated sick leave for family leave (Foster, lead sponsor). Passed Senate 3/1/06. Referred to House Judiciary. House Judiciary reported 3/8/08 with recommendation. Recommitted to House Judiciary, second reading 3/8/06.

**Senate Bill 765** – Relating to start of workday for school bus operators and transportation aides (Chafin, lead sponsor). Passed Senate 3/1/06. Referred to House Education 3/2/06. Recommitted to House Education 3/8/06.

**Senate Bill 782** – Relating to READS grant program (Plymale, lead sponsor). Passed Senate 3/1/06. Referred to House Education 3/2/06.

**Senate Bill 783** – Relating to National Board for Professional Teaching Standards certification (Plymale, lead sponsor). Passed Senate 3/1/06. Referred to House Education 3/2/06.

\***Senate Bill 784** – Relating to teacher certification (Plymale, lead sponsor). Passed Senate 3/1/06. Passed House 3/8/06.

\***Senate Bill 785** – Relating to school physical education requirements (Plymale, lead sponsor). Passed Senate 3/1/06. Passed House 3/9/06.

**Senate Bill 787** – Creating Transportation Coordinating Council (Unger, lead sponsor). Passed Senate 3/1/06. Referred to House Government Organization, then House Finance. Passed House 3/9/06.

**Senate Bill 792** – Merging Fairmont State Community and Technical College with Fairmont State University; renaming Community and Technical College of Shepherd (Oliverio, lead spon-

sor). Passed Senate 3/1/06. Referred to House Education, then House Finance 3/206. House Education approved 3/8/06. Committed to House Finance on second reading.

## *Education-Related House Bills*

**House Bill 2141** — Prohibiting persons from soliciting contributions on public highways. Passed House 2/9/06 (Hamilton, lead sponsor). Referred 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 1/31/06. Referred to Senate Government Organization, then Senate Judiciary. Senate Judiciary approved 3/8/06. Senate second reading 3/8/06.

**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). Passed House. Passed Senate 3/8/06.

**House Bill 2607** – Expanding newborn screening by adding sickle cell anemia and adrenal hyperplasia (Leach, lead sponsor). Passed House 2/7/06. Referred to Senate Health and Human Resources, then Senate Finance 2/8/06.

**House Bill 3019** – Establishing “Community Volunteer Enrichment Programs” in the public schools (Beach, lead sponsor). Passed House 2/27/06. Referred to Senate Education 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. On second reading to Senate Finance 3/6/06.

**House Bill 4012** — Creating “Child Abuser Registration Act” (Mahan, lead sponsor). Passed House 1/20/06. Referred to Senate Judiciary, then Senate Finance. On second reading to Senate Finance 3/7/06.

**House Bill 4015** – Relating to funding of Revenue Shortfall Reserve Fund (Kiss, lead sponsor). (Same as SB126). Passed House 2/28/06. Referred to Senate Finance 3/1/06. Removed from Calendar by Rules Committee 3/8/06.

**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. Second reading 3/9/06.

\***House Bill 4019** — Relating to the preparation and distribution of the Budget Digest (Kiss, lead sponsor). Passed House 1/24/06.

See **BILLABSTRACT** on page 12

# Bill Abstract

*continued from page 11*

Passed Senate 3/2/06.

**House Bill 4023** – Raising the minimum wage in accordance with legislation now pending before Congress (Brown, lead sponsor). Passed House 3/1/06. Referred to Senate Labor, then Senate Judiciary, then Senate Finance. Second reading to Senate Finance 3/8/06.

**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. Referred to Senate Finance on 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. 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 1/19/06. Referred to Senate Education, then Senate Finance. Senate Education approved 3/7/06. Second reading to Senate Finance 3/7/06.

**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 Judiciary. To Education on 1/20/06.

**House Bill 4047** – Relating to part-time prosecuting attorneys (Pethtel, lead sponsor). Passed House 2/1/06. Passed Senate 3/2/06. Referred to governor 3/7/06.

**House Bill 4048** – Placing limitations on the use of eminent domain (Amores, lead sponsor). Passed House 1/19/06. Passed Senate 3/9/06.

**\*House Bill 4049** – Relating to state-funded student financial aid, including Promise scholarship (Campbell, lead sponsor). Passed House 1/19/06. Senate approved 3/9/09.

**House Bill 4073** – Establishing the crime of trafficking persons (Spencer, lead sponsor). Amendments pending 2/17/06. Tabled on Third Reading, Special Calendar 3/2/06.

**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. Referred to Senate Education, then Senate Finance 3/2/06.

**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. Referred to Senate Judiciary 2/16/06.

**House Bill 4119** – Creating the ATV Responsibility Act (Cann, lead sponsor). Passed House 3/1/06. Referred to Senate Roads and Transportation, then Senate Judiciary. Second reading to Senate Judiciary 3/7/06.

**House Bill 4121** – Enhancing the penalty for indecent exposure where the victim is a child under the age of fourteen (Azinger, lead sponsor). Passed House 3/1/06. Referred to Senate Judi-

ciary, then Senate Finance 3/2/06.

**House Bill 4126** – Relating to retention of seniority for the purpose of seeking reemployment for professional employees whose employment with a country board of education was terminated voluntarily (Kiss, lead sponsor). Passed House 3/1/06. Referred to Senate Education, then Senate Finance. To second reading, Senate Finance 3/7/06.

**House Bill 4133** – Clarifying 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. Referred to Senate Health and Human Resource, then Senate Judiciary. Second reading, Senate Judiciary 3/3/06.

**\*House Bill 4240** — Changing the name of the Community and Technical College of Shepherd to Blue Ridge Community and Technical College (Wysong, lead sponsor). Referred to House Education 2/14/06. Passed House 2/14/06. Passed Senate 3/7/06.

**House Bill 4253** – Removing the requirement for dual membership of certain higher education governing board chairs (Doyle, lead sponsor). Passed House 2/22/06. Referred 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. Referred to Senate Government Organization, then Senate Judiciary. Passed Senate 3/9/06.

**House Bill 4260** — Requiring state board review of system of education performance audits (Perry, lead sponsor). Passed House 2/15/06. Referred to Senate 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 (DeLong, lead sponsor). Passed House 2/21/06. Referred to Senate Military, then Senate Finance. Senate second reading 3/9/06.

**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. Referred 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. Referred to Senate Judiciary on 2/9/06.

**House Bill 4341** — Requiring that instructional support and enhancement days are held twice before December 31<sup>st</sup> and three times after January 1<sup>st</sup> for the instructional term (Schadler, lead sponsor). Originated in House Education 2/1/06. Tabled, Third Reading, Special Calendar 3/2/06.

**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. Referred to Senate Judiciary 2/16/06.

**House Bill 4379** – Relating to insurance coverage for mammograms, pap smears and human papillomavirus (Brown, lead sponsor).

*See BILLABSTRACT on page 13*

# Bill Abstract

*continued from page 12*

Passed House 3/1/06. Referred to Senate Banking and Insurance. Referred to Senate Finance 3/7/06.

**House Bill 4393** – Adjusting foundation allowance for transportation for projected fuel costs (Campbell, lead sponsor). Referred to House Finance 2/6/06. Passed House 3/1/06. Referred to Senate Education 3/2/06.

**House Bill 4398** — Improving the capacity of county boards of education to provide school health services (Campbell, lead sponsor). Originated in House Education 2/6/06. Passed House 3/1/06. Referred to Senate Education, then Senate Finance 3/2/06.

**House Bill 4406** — Removing the requirement to evaluate certain classroom teachers at least every three years (Perry, lead sponsor). Passed House 2/20/06. Referred 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. Referred to Senate Agriculture Committee 3/1/06. Passed Senate with amendments. House Unfinished Business, Special Calendar 3/10/06.

**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. Referred to Senate Education, then Senate Finance. Referred to Senate Finance 3/8/06.

**House Bill 4472** – Includes family court jurisdiction in all proceedings concerning grandparent visitation (Kominar, lead sponsor). Passed House 2/27/06. Passed Senate 3/8/06.

**House Bill 4481** – Establishes a permissive provision for using ballot-scanning devices for election night tabulations (Amores, lead sponsor). Passed House 2/20/06. Referred to Senate Judiciary 2/21/06.

**House Bill 4487** – Allowing an individual, who is at least 16-years-old to be in the vehicle to assist the Class Q permittee. Passed House 2/28/06. Referred to Senate Natural Resources 3/1/06. Senate First Reading 3/9/06.

**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. Referred 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. Referred to Senate Judiciary 2/23/06. Senate second reading.

**House Bill 4491** – Establishing the third week of October as Disability History Week for the State of West Virginia. Passed House 2/22/06. Passed Senate 3/8/06.

**House Bill 4492** – Relating to absentee voting by facsimile. Passed House 3/1/06. Referred to Senate Judiciary 3/2/06.

**House Bill 4510** – Removing language requiring the commission to maintain a registry and censuses of persons who are deaf or hard of hearing (Kiss, lead sponsor). Passed House 3/1/06. Referred to Senate Government Organization. Senate second reading 3/2/06.

**House Bill 4518** – Relating to substitute service personnel seniority (Caputo, lead sponsor). Passed House 3/1/06. Referred to Senate Education, then Senate Finance. Senate Education approved 3/8/06. Second reading, Senate Finance 3/8/06.

**House Bill 4544** – Allowing for more teachers to be reimbursed for approved course work (Campbell, lead sponsor). Passed House 3/1/06. Second reading, Senate Finance 3/7/06.

**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). Passed House 3/6/06. Referred to Senate Education, then Senate Finance.

**House Bill 4547** – Increasing the funds available for transfer to the Prepaid Tuition Trust Escrow Fund in certain circumstances (Campbell, lead sponsor). Passed House 3/1/06. Referred to Senate Education, then Senate Finance 3/2/06.

**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. Referred to Senate Education 2/24/06.

**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. Passed Senate 3/7/06.

**House Bill 4623** – Relating to reports of inspections of schools by local boards of health (Proudfoot, lead sponsor). Passed House 3/1/06. Referred to Senate Education, then Finance 3/2/06.

**House Bill 4625** – Extending certain authority to professional personnel designee of school principal (Campbell, lead sponsor). Passed House 2/24/06. Senate second reading 3/9/06.

**House Bill 4626** – Including private schools, parochial schools, church schools, and other schools operated by a religious order in state student teaching programs (Kiss, lead sponsor). Passed House 3/1/06. Referred to Senate Education Committee 3/2/06. Senate second reading 3/7/06.

**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). Passed House 2/27/06. Passed Senate 3/7/06. House Unfinished Business, Special Calendar.

**House Bill 4689** – Increasing beginning teacher salaries (Campbell, lead sponsor). Passed House 2/24/06. Referred to Senate Education then Finance 2/27/06.

**House Bill 4690** – Making WVU Institute of Technology a division of WVU (Perry, lead sponsor). Passed House 3/1/06. Referred to Senate Education, then Senate Finance 3/2/06.

**House Bill 4694** – Relating to abuse and neglect of children (Amores, lead sponsor). Passed House 2/28/06. Referred to Senate Judiciary 3/1/06. Senate second reading.

**House Bill 4712** – Creating definitions and penalties for stalking (Amores, lead sponsor). Passed House 3/1/06. Referred to Senate Judiciary 3/2/06.

*See BILLABSTRACT on page 14*

# Bill Abstract

continued from page 13

**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). Referred to Senate Judiciary 3/2/06. Senate second reading 3/9/06.

\***House Bill 4751** – Extending the time for the Board of Education of the County of Grant to meet as a levying body. Passed House 2/24/06. Passed Senate 3/3/06.

**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. Referred to Senate Pensions, then Finance 3/2/06.

**House Bill 4785** – Allowing school service personnel the opportunity to vote on giving transfer preference to employees from a

merged school (Marshall, lead sponsor). Passed House 3/1/06. Referred to Senate Education, then Senate Finance. Second reading, Senate Finance 3/7/06.

**House Bill 4846** – Providing one-time supplements to certain annuitants (Michael, lead sponsor). Passed House 3/1/06. Reference dispensed. Second reading to Senate Finance, 3/6/06.

**House Bill 4848** – Relating to requirements for physical education in the public schools (Campbell, lead sponsor). Passed House 3/1/06. Referred to Senate Education 3/2/06.

**House Bill 4854** – Expert opinions of licensed psychologists in the treatment and evaluation of children and taking testimony of child witnesses (Morgan, lead sponsor). Passed House 3/1/06. Referred to Senate Judiciary. Senate second reading 3/9/06.

\* Passed by both houses. May not have fully completed legislative action, however.

## IN BRIEF

continued from page 7

### Promise likely to continue

Legislators seem on course this session to continue the Promise scholarship program that provides full scholarships for qualifying students.

Earlier in the week, the Senate Finance Committee advanced legislation to include an additional \$40 million in Promise funding for FY07, with 2 percent funding increases, to about \$42.5 million by 2010.

That legislation is similar to a House-passed bill.

Each proposal increases funding for the merit-based scholarship program by about \$10.9 million in the coming year. Promise is

paid for by video lottery net profits.

Like the House version, the bill also increases funding for needs-based tuition grants from the current \$21 million to about \$25 million a year by 2010.

The Senate Finance Committee added a provision to the House legislation, which is included in **House Bill 4049**, to track Promise scholarship recipients to determine the percentage who remain in West Virginia – a central Promise goal.

According to information provided to legislators this year, 9,830 Promise scholars are attending West Virginia colleges.

Sources: *The Charleston Gazette, Charleston Daily Mail, West Virginia MetroNews and West Virginia School Boards Association reporting.*

## Looking Back

# Statewide excess levy saw demise in '96

The March 8, 1996, issue of *The Legislature* detailed last-minute activity in the regular session a decade ago.

Of primary significance was a story about the demise of a proposed 75 percent statewide excess levy — 1996 was the last year the Legislature considered this issue. The measure, if adopted by lawmakers (and approved by state voters), also would have set the state's Homestead Tax Exemption at \$40,000 — not the current \$20,000. It died in the Senate.

County board members were on their way to getting a pay increase, as the Senate passed that bill 29-5. The House adopted it the last day of the session. The bill increased board members' pay from \$80 per meeting to \$100 per meeting, capped at 70 meetings per year.

Other issues reported in that edition of *The Legislature*:

- A bill "correcting" a state Supreme Court of Appeals decision about county board liability was set to pass the Legislature after it failed in the 1995 session. (The high court had essentially ruled that county boards lacked immunity for certain actions occurring on their properties because there was no express legal sanction granting this type immunity.)

- **Senate Bill 300**, one of the most controversial pieces of legislation ever adopted by state lawmakers, was near approval. Several legislators said they did not understand the bill's provisions. Others were opposed to its contents, saying it forced students, at an early age, to commit to a career path, and some county board members and superintendents said it was an "unfunded mandate." The Legislature adopted the bill, which was formally known as the "Jobs Through Education Act of 1996." Barely a peep is heard about the measure today, though its provisions are ensconced in West Virginia Board of Education policy.
- Teachers did get a pay raise in 1996. It was included in a far-ranging (omnibus) bill regarding the state School Aid Formula.
- School board foes of Integrated Pest Management were unsuccessful in getting this legislation slowed or defeated, meaning glue traps and the like started appearing (at least more frequently) in schools in what was considered the "unfunded mandate" of the session.

From *The Legislature*, March 8, 1996

# Full-court press killing community schools

By Dianne Weaver  
The Hur Herald

It's been a full-court press to kill a grassroots bill in the West Virginia Legislature that would return some power to parents over deciding whether or not their community schools would be consolidated.

It would have mandated an election after at least 20 percent of a county's voters had signed a petition.

Much of the opposition has come from the State Department of Education, the West Virginia Board of Education and the West Virginia School Boards Association.

After closing more than 300 community schools, some balance would have been given to citizens regarding the closing of their elementary and middle schools. **House Bill 4040** was almost unanimously approved by the 25-member House of Delegates Education Committee, the vote was 93-4.

Gov. Joe Manchin, who ran on protecting community schools, gave some last-minute support to the bill, but did not appear to actively support the measure. Such grassroots momentum is not enough for the Senate's education chairman, Robert Plymale D-Wayne.

Plymale said his committee is not going to advance the bill, which effectively kills the legislation.

Plymale said, "It's a decision that needs to be made by members of the Board of Education. If you don't like the decision, you can vote them out."

#### HEARD IT BEFORE?

Linda Martin of Challenge West Virginia, said, "That might sound good, but it's been the party line since former Sen. Lloyd Jackson and former Del. Jerry Mezzatesta were the architects of school consolidation."

Jackson, who was defeated in his bid to become governor, used Plymale's "local board decision" statement on the campaign trail, when asked to discuss issues related to school consolidation.

Martin said most West Virginians know about the "bloody hammer" state school officials use to hold local school boards hostage.

"That's the reason for trying to return some power to communities, in face of well over 100 elementary schools still on the chopping block," said Martin, with more likely to come.

Del. Larry Williams, D-Preston, vice chairman of the House Education Committee, said, "This measure would give some balance to the problem," indicating his constituents are "worn out" with the power executed by state education officials.

State education officials continue to ignore the long bus rides

created by consolidation. "They keep doing studies with manipulated numbers" about how many students are affected, said Martin.

#### O'Cull says bill causes problems

Howard O'Cull, executive director of the West Virginia School Boards Association, was opposed to having local voting, saying, "It just adds another layer to the issue," and could cause money problems for school boards.

O'Cull reminded Challenge West Virginia members at a conference last fall that most of the constitutional powers of local school boards have been removed by the West Virginia Legislature, and taken to Charleston.

Debbie Phillips, Putnam County school board president, said the legislation would have provided for more participation from county voters.

"I think it's great to give voters a right. It gives them some debate. And I support that. That's what our country was built on," she said.

Del. Tom Campbell, D-Greenbrier, chairman of the House Education Committee said, "There seems to be a growing consensus that consolidation affecting our younger children is not a good idea," with thousands of children as young as four

***"It's a decision that needs to be made by members of the Board of Education. If you don't like the decision, you can vote them out."***  
— **Senate Education Chairman**  
**Bob Plymale, D-Wayne**

being bused one to 1½ hours each way.

Martin says the state's educational bureaucrats and officials "totally ignore the research that kids do better in small, community schools."

Thomas Ramey of Challenge West Virginia said politicians are taking notice.

"The public is worn to a frazzle with public policy that destroys their schools and takes education away from their communities," he said.

"Voters could take to heart Sen. Plymale's admonition to 'vote them out,' not just school board members," concluded Martin, recalling the history of Jerry Mezzatesta, who also issued such a challenge.

*Reprinted by permission of the Hur Herald. This article was published March 3, 2006.*



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## Education levels drive economic growth

By Dave Peyton  
Charleston Daily Mail

Things are booming in north-central West Virginia. West Virginia University's Bureau of Business and Economics says the region that encompasses Doddridge, Harrison, Marion, Monongalia, Preston and Taylor counties has been the state leader in job growth and per capita income for the past six years.

Why? The answer is obvious for anyone who wants to examine what's happening. But those who still believe in old-fashioned manufacturing, staffed by people with "weak backs and strong minds" had better not peek.

They'll find what some have been saying for decades: The successful region is the region where educational achievement is the greatest.

George Hammond of WVU's Bureau of Business and Economics says the region has grown and will continue to grow because it's the beneficiary of "a strong concentration of highly educated residents" who have come to north-central West Virginia because of the area's colleges, universities, medical centers and high-tech jobs.

In fact, I will make a prediction: In the years to come, the I-79 corridor between Clarksburg and Morgantown will increase in population and education levels until it becomes THE major metro area in West Virginia and the engine that generates the most private-sector jobs in the state.

Per-capita income is up 4.8 percent in the region between 1998 and 2003, according to a report from Hammond by the Associated Press. Statewide, the increase was only 3.9 percent for the same period and 3.2 percent for the nation.

Still, the average income is below the national average, but it's likely that the folks in north-central West Virginia will be the first to catch up with the national average.

Creating an educated work force and populace is a complex problem.

It means, first and foremost, educating everyone to the max. Once educated, it means providing those educated people with jobs in order to keep them.

Then it means providing these folks with the kind of infrastructure and services that will keep them happy and satisfied with the place where they live. That, in turn, will attract educated people from other places.

Hammond pointed out that that the economy created by educated people creates jobs for those who may not have attained terminal degrees. For example, construction in the north-central region is booming. So are service industries and the trades.

But it all begins with those who are educated and have high-paying jobs as a result.

So many studies have been done on the relationship between education and economics that it has become virtually axiomatic:

The higher the educational attainment in a region or a country, the more robust the economy.

So we can wish all we want for the good old days when good jobs and a good economy were available without a core group of educated people, but it's not in the cards for West Virginia or any other place in this rapidly shrinking world.

And if anyone in this state thinks differently, they're not only hallucinatory, they're probably part of the problem rather than a key to the solution.

Peyton may be reached at [davepeyton@davepeyton.com](mailto:davepeyton@davepeyton.com).  
Reprinted with permission from the March 6, 2006 Charleston Daily Mail, [www.dailymail.com](http://www.dailymail.com).

*They'll find what some  
have been saying for decades:  
The successful region  
is the region where  
educational achievement  
is the greatest.*

## Wisdom

As St. Patrick's Day approaches . . .

*"Being Irish, I have an abiding  
sense of tragedy  
which sustains me through  
temporary periods of joy."*

**- William Butler Yeats  
(1869-1939), Irish dramatist,  
mystic and public figure.**

**Grunts and groans** to our astute (smart aleck) readers who pointed out that last week's "Wisdom" quote might not have been "wisdom" after all in that the chap quoted, an Australian psychiatrist, lived to the ripe old age of 35. The quote, "If you really observe a happy man, you will find...that he is happy in the course of living 24 crowded hours each day...." W. Beran Wolfe.

We appreciate our readers' wisdom and keen eyes. If you'd like to share your thoughts on something you've read in *The Legislature*, drop us a line at [hocull@wvsba.org](mailto:hocull@wvsba.org).

## Sound Bites

**“Is it worth the trouble for a four-year-old computer?”** – Senate Minority Leader Vic Sprouse, R-Kanawha, discussing a plan and the procedures for providing used computers to schools.

**“We have to make some final decisions about what, if anything, we can do to get their attention...”** — Judy Hale, president of the West Virginia Chapter of the American Federation of Teachers, calling this legislative session a “terrible failure” when it comes to educators’ pay increases.

**“Do I have a question for him? Only if he’s got a quick answer.”** – Del. David Perry, D-Fayette, after being asked to direct a question to West Virginia University Institute of Technology President Charles Bayless. Bayless had provided a lengthy response to an earlier question from a House Education member.

**“It’s called ‘Christmas-treeing.’”** – Del. Sharon Spencer, D-Kanawha, describing a higher education bill that addressed several topics. In attempts to “please everyone,” crafty legislators sometimes load bills with so many provisions they actually fail.

**“Mary, you had me talking and I missed it.”** – Del. Brady Paxton, D-Putnam, who is known for his eloquent, elaborate motions to have House Education minutes approved. Del. Dale Stephens, D-Cabell, had made the minutes approval motion while Paxton was talking to Del. Mary Poling, D-Barbour, who sits across from him.

## Meanwhile in New Jersey...

Reversing an earlier stand, the New Jersey Schools Construction Corp. decided to demolish an X-rated theater and a hotel frequented by prostitutes, adjacent to the site of a proposed elementary school.

The corporation, a state agency that builds schools primarily in the state’s poorest districts, originally had assumed that the two businesses would be razed, and that the property would be used as a parking lot for the new \$37 million school.

But as the corporation became mired in financial and management problems, school officials were told the agency could not afford to buy those properties, leaving open the possibility that the school, theater and hotel would coexist.

That brought the ire of New Jersey Assemblyman Gary S. Schaer, who last Thursday met with the governor’s special counsel for school construction and other officials. Later that day, the agency issued a statement saying, “It is not appropriate to put a school across from an adult theater and hotel,” and pledged to draw up a new plan.

Last Friday, the construction corporation’s new chairman attributed the earlier willingness to leave the hotel and theater where they are to “a lack of good decision-making.”

Last April, the state’s inspector general issued a scathing report that described the school building agency as being vulnerable to “mismanagement, fiscal malfeasance, conflicts of interest, and waste, fraud and abuse of taxpayer dollars.”

*Source: New York Times, March 4, 2006, www.nytimes.com*

## The Legislature

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