



August 2004 Interim Report

The W.Va. Legislature's most recent interim meetings were held at Glade Springs Resort, Daniels (Raleigh County) on August 22-24. In terms of education-related meetings, there were some Joint Committee on Education visitations. The Legislative Oversight Commission on Educational Accountability (LOCEA) dealt primarily with higher education matters. September interim meetings will be held in Charleston on Sept. 19-21. October meetings will be held in Shepherdstown (Jefferson County), on Oct. 10-12. November interim meetings will be held in Charleston on Nov. 7-9, and December meetings will be Dec. 5-7. Given that the governor will be sworn in office in January, the Legislature meets on Jan. 9, convening Feb. 9. Next year's regular session is slated to end midnight Saturday, April 9.

Overview

STATS

2004 Regular Session: *Adjourned Sine Die*
Days Until 2005 Regular Session: 134
Interim Meetings Remaining: September - January 2004

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QUOTE

"I think one of the things we can't ignore is that he is a person who really cares about children. It's good to break new ground, and he's been a strong advocate for what's good for students..."

— *W. Va. Board of Education President Barbara Fish in a recent Charleston Daily Mail interview, discussing former House Education Chairman Jerry Mezzatesta (D-Hampshire).*

Mezzatesta as 'Identified Patient' The Mezzatesta Mess: Admonishment, Lessons

Analysis/Commentary by Howard M. O'Cull, Ed.D.

House Speaker Bob Kiss (D-Raleigh) issued a statement August 17, announcing that he had removed Jerry Mezzatesta (D-Hampshire) as Education Committee Chairman. Kiss' action came after several months of intense newspaper scrutiny and reportage excoriating Mezzatesta's actions, primarily from *Charleston Gazette* reporter Eric Eyre.

The volley of these reports, sometimes with supplemental reporting from the state Bureau of the Associated Press and the statewide radio network, MetroNews, detailed Mezzatesta's drawing of pay both as a Hampshire County school administrator and legislative pay—something no other educator/legislator is believed to receive. The Hampshire county lawmaker also was alleged to have procured grants from W. Va. Department of Education officials for Hampshire County Schools—a violation of a 1999 agreement that Mezzatesta had entered into as a result of a state Ethics Commission ruling allowing him to serve as a legislator and Hampshire County central office administrator.

An initial investigation by the EC found Mezzatesta to have committed no wrong-doing. Plied with new evidence (primarily by a newly-formed watchdog group, W. Va. Wants to Know), the EC reopened the case. Kanawha County Prosecutor Mike Clifford also announced that he is investigating certain aspects of the case, primarily relating to sworn statements made by both Mezzatesta and State Superintendent David Stewart who said Mezzatesta hadn't solicited funds from him "personally," although the *Gazette* produced what Eyre reported were documents and evidence to the contrary. (According to Hampshire County officials, Superintendent David Friend is not the subject of this type investigation, as reported by the *Gazette*.)

The Letter

Amid these actions, Mezzatesta's office produced a letter which appeared to contradict the EC and *Gazette* allegations. It was delivered July 1 to Stewart by Mezzatesta's attorney. W. Va. Department of Education officials were unable to find the original letter, which would have been forwarded to the WVDOE. Additionally, Eyre, in several subsequent articles, revealed that the letter was printed on stationary Mezzatesta's office wasn't using in early 2003 when the correspondence was purportedly written. At this juncture, the House Speaker announced his own internal investigation headed by House Judiciary and Finance Committee attorneys and aided by the Legislature's unit on Special Investigations.

As pressure was building for Kiss to remove Mezzatesta as

chairman of the powerful committee, four county boards and one county commission called for the ouster. (*The Legislature* has learned that two additional county boards were ready to adopt similar resolutions.) According to various reports, much of the pressure came from legislative Democrats, particularly Democrats in election races considered close in the fall, as well as several newspapers and citizens.

According to MetroNews' Hoppy Kercheval in his Aug. 19 Commentary, it appeared that Kiss "was prompted to remove Mezzatesta after investigators learned (details) from... a capital employee who allegedly falsified a letter or letters to reinforce Mezzatesta's contention that he never used his position to secure grant money for the Hampshire County School System where he works..."

On the day Kiss announced his decision to remove Mezzatesta, the HEC chairman, earlier that morning, had issued a statement seemingly saying he was forgoing the post, and that he was taking 30 days medical leave—the period of leave to expire September 15, according to HCBOE officials.

The Removal

While Kiss removed Mezzatesta from the position, he apparently didn't remove him as a member of the HEC, or as a member of the House Finance Committee. (Kiss hasn't said whether or not Mezzatesta was removed as a member of the Rules Committee.) Secondly, Kiss didn't appoint Del. Larry Williams (D-Preston) as HEC Chairman; although Williams said he was willing to assume that role, especially in remarks made to MetroNews. According to House officials, Williams will continue to serve as committee vice chairman. Additionally, Kiss said he might wait until next year to appoint a committee chairman.

(Williams told the *Gazette* he was present when Mezzatesta requested that the letter in question be written. He told AP reporter

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Lawrence Messina, in a story that appeared last week, he had "received a copy of the letter then [in early 2003], though he does not recall reading it. Williams said a committee staffer called him around July 1 to locate his copy." According to Eyre, Williams has made similar remarks to EC investigators.)

Based on several press accounts and information from various sources, the Mezzatesta investigations may wrap-up in mid-September—about the time the legislator's medical leave is to expire. Eyre, in a recent newspaper article, reported that Mezzatesta was in South Carolina, where he purchased a home in June, and Kercheval, in a "background" report, quotes an unnamed House legislator as saying Mezzatesta may leave the Legislature and move out of state.

The Fallout

What follows is this writer's analysis of the "Mezzatesta fallout":

- Although roundly criticized for not removing Mezzatesta "earlier" in the game, the House Speaker was able, through the evolution of events (including the employee's alleged admission and what the press refers to as the 'smoking computers'—computers removed from Mezzatesta's office), to literally have no other choice. The parsing and lawyerly approach the Speaker took proved wise in the end. Hastier action might have annoyed some legislators who assuredly see this entire episode as unfair assailment by the *Gazette* (or as Mezzatesta would say 'partisan politics'). Moreover, the EC had dismissed the Mezzatesta complaint in June and early on there was no mention of the letter delivered July 1 or any "smoking computers." That said, the Speaker continues to receive criticism from some legislators who say his delay in removing Mezzatesta, given the newspaper reportage, undercuts legislative credibility. According to unnamed Republicans quoted in a recent AP story, GOP Delegates are sure to try capitalizing on the events—and there may be electoral fallout for Kiss, according to some Republican lawmakers.

The 'Almost' Ides of March

- The entire series of events actually began to unfold in March when Mezzatesta, flanked by a cohort from his "inner circle," appeared before a W. Va. Board of Education meeting rounding excoriating Office of Education Performance Audits Executive Director Kenna Seal, Ed.D., for Seal's allegedly reneging on an "agreed-to" legislative proposal (**House Bill 4001**). That action may have promoted the *Gazette's* Eyre—who, for several months reportedly had been receiving a spate of complaints (from wide-ranging sources) concerning Mezzatesta and his impulsive temperament—to delve into the matter as he first reported on the double-dipping situation.

- Prior to the March WVBOE incident, which the *Gazette* labeled as, "Kenna Seal Target of Rage," Mezzatesta had called for about a \$60,000 increase in the State Superintendent's compensation. Stewart, making an announcement that he was going to resign for "personal reasons," was "persuaded" to petition the WVBOE to remain in his job until 2006—this all following very public statements by Mezzatesta (including Stewart's appearance before the House of Delegates late in the 2004 regular session) that Stewart remain on the job. (Stewart's critics say if he were going to resign for personal reasons, would Mezzatesta's 'intervention' have mattered?)

Stewart EC Complaint

- If Mezzatesta's actions would have been confined to fun-

neling money to his district or even to the alleged salary double-dipping, he likely wouldn't have met this fate. The letter incident, coupled with the alleged false statements, actually gave the matter an entirely different cast—one that legislative higher-ups couldn't ignore. Additionally, WVWTK's action placed pressure on the EC. And the group, according to its leaders, doesn't believe things ought to stop with Mezzatesta. According to co-founder Wanda Carney, WWTK has filed EC complaints against Stewart and Williams for, in Carney's words, their alleged "involvement" in the matter. When contacted by *The Legislature*, EC Executive Director Lew Brewer said he couldn't comment on whether complaints had been filed against Stewart and Williams and that, unless the results of a subsequent investigation compel the EC to act, any such complaints would remain sealed. (This is the EC's standard course of action such as when the state Citizens Action Group filed a complaint, now public, against Sen. Mike Ross [D-Randolph] for matters involving funding for the 2004 Pete Dye Golf Tournament.) While many in the education community find Stewart's actions "problematic," whether he has committed an EC violation is somewhat questionable. Additionally, Stewart's admission "that his testimony had been mistaken," to use the *Gazette's* phraseology in an editorial entitled, "Still Worse: The Mezzatesta Mess," may be of more legal consequence, according to some sources, although Stewart has said Mezzatesta never solicited funds from him "personally." WWTK officials, however, point to correspondence reported in the *Gazette* which, they say, indicates otherwise, with Eyre pointing to a Jan. 2, 2003 letter to that effect.

- The WVDOE/Mezzatesta connection goes back to Mezzatesta's appointment as committee chairman in 1997 when he initially relied on WVDOE officials to draft legislation. Moreover, Mezzatesta, unlike most education committee chairmen, had a strong sense of "the fiscal" in terms of education policy, meaning greater reliance on the Office of School Finance and the WVDOE's Division of Administrative Services, which Stewart at that time oversaw for former state superintendent Henry R. Marockie, Ed.D. Upon Marockie's abrupt departure from his position in 2000 (largely due to matters regarding privately-financed expense accounts and the like), Stewart became state superintendent. Given Mezzatesta's penchant for school finance matters, WVDOE/Education Committee ties became stronger—again with a pronounced finance focus. In addition to Mezzatesta's "education finance policy worldview," the Hampshire County School System found itself in a deficit. It was during this time that Mezzatesta, based on press accounts, began to make overtures to WVDOE officials which, in some cases, amounted to funds being funneled to his district.

Captive Policymaking?

- Given Mezzatesta's educational policy as finances approach, the WVBOE's policymaking role became more captive to the Mezzatesta/WVDOE arrangement—a notion that then Senate Education Committee Chairman Lloyd G. Jackson II (D-Lincoln) began to address by trying to beef up the board's policymaking responsibility vis-à-vis the state superintendent of schools and WVDOE officials. In at least some symbolic sense, this was accomplished through the SEC staff's drafting of statutes to empower the WVBOE overtly—not the state Department of Education. An example is the 2002 statute overhauling Regional Education Service Agencies (RESAs). (In a parallel series of events, the state board—comprised of part-time officials who, as a body, routinely engage in meetings characterized by department staff presentations—has

never been able to fully exert this authority, according to some observers. Thinking that state board officer continuity would aid in providing more organizational oomph, Jackson spearheaded legislation that allows the WVBOE president to serve two consecutive terms.)

- With Mezzatesta's departure, education officials are rightly asking about the future WVDOE legislative role, noting that the previous arrangement was somewhat symbiotic—of advantage to Mezzatesta and making WVDOE officials' policymaking predictable; seemingly directed not to irritate legislative funders (as previous state superintendents had). Again, Jackson saw these events unfold, trying to increase WVBOE prowess, but the board, in a great sense, is captive to department information and to the WVDOE approach with powerful legislators—a point illustrated when former state board president Howard M. Persinger Jr. (Mingo) "froze" Budget Digest funds much to the consternation (amusement?) of legislators. The dollars were released but not before Persinger claimed WVDOE officials in 2003 had "agreed" to "reduced" educational budgetary appropriations, with one staffer informing the WVBOE that "Del. Mezzatesta" had no intentions of increasing the WVDOE funding in question, although some funds were restored later in the calendar year. (Of course, we have to realize that the Legislature is responsible for ensuring a "thorough and efficient" school system which, in common parlance, concerns fiscal appropriations.)

The Triangle

- Jackson's efforts to empower the WVBOE—an approach his successor Bob Plymale (D-Wayne) continues—points out the "referent power" or "positional power" wielded by the state superintendent and WVDOE officials who must "work across the street." All sorts of policy questions emerge and converge around these arrangements, with WVBOE members, I'm sure, sometimes wondering about WVDOE officials' "loyalties." Again, if education policy is viewed primarily in terms of fiscal outlay, one can see that legislators will, unwittingly or otherwise, have the upper hand. Moreover, WVDOE officials can't risk an empowered state board having the potential at least to irritate funders. (Think the Persinger situation described above.) One consequence of that type "unilateral" WVBOE action could mean *agency* budgetary reductions—or worse incidents where Mezzatesta in particular would publicly "take on" officials such as Higher Education Policy Commission Chancellor J. Michael Mullen, Ph.D. (How many times has the House of Delegates, at HEC insistence, cut Mullen's pay—a move simply ignored by the state Senate?) For whatever reasons, state board empowerment per se has been captive to WVDOE officials in some respects through agency officials' perceived captive behavior toward funders. This entire arrangement has created a "balance" or, in political science terms "homeostasis," so that no one member of the policymaking triangle is able to emerge as dominant, although this writer could argue the Legislature appears to have an edge. Thus, both legislators and WVDOE officials may possibly fear a more independently empowered state board, especially a board that would operate on the basis of more unilaterally-acquired information for conversion into decisionmaking—and WVDOE policy direction. (Thus the Jackson/SEC efforts has the potential of creating internal state board/state Department of Education policy tension. In the RESA situation, the eight executive directors appear to politic the WVBOE which, of course, may vex department officials, creating a type of policy draw known by political scientists as parallelism.)

- Education interest groups will use the Mezzatesta situation to regroup for a chairman. In fact, at least one teachers' association, long before Mezzatesta's removal as chairman, had their eyes upon a potential successor or two. While Kiss probably won't "redo" the HEC in a wholesale sense, it's likely some of Mezzatesta's inner circle will be replaced. In fact, one of those members has told *The Legislature* he wants a different committee assignment next year. Additionally, Brady Paxton (D-Putnam) has uttered words about the situation, saying he didn't consider himself part of Mezzatesta's "inner circle." Expect more of this.

EC Overhaul

- While newspaper and good government types hope for a definitive overhaul of the EC, don't expect that approach. Expect some significant changes—perhaps the commission will be given its own investigatory powers—but also expect some typical legislative home-cooking. Reasons likely to be cited: This is a small state; alliances are common; most legislators just do their job thus 'don't have a dog in this fight'; an empowered commission will mean "witch hunts"—a point Paxton has made to the *Gazette* in an interview last week; the *Gazette* may become too powerful out of all this; and, probably what will bring the greatest nods among Democrat lawmakers is a charge that much of this is partisan. (They'll note that the original EC complaints were filed by state GOP officials.)

- What *Gazette* statehouse reporter Phil Kabler describes as the "Budget Digest mentality" greatly contributed to this entire episode (at least in this writer's opinion). Kabler's column, reprinted in its entirety, addresses that perspective.

Personal Observations

Lastly, this writer offers three personal observations:

- 1) We are all flawed people (although redeemable in a Christian sense perhaps). Mezzatesta was a reformer in one sense, and reformers—given the 'occupational hazards' and trappings that accompany that calling—are usually self-anointed contrarian, controversial figures. (Rest assured, nothing I have written should be taken as an apology for Mezzatesta's legendary temper and outbursts.) You always knew Mezzatesta would gore your sacred ox—publicly, of course—sooner or later. He, in fact, seemed destined like some tragic-comic figure of the Classical Era to gore the varied oxen that haunt the statehouse—lobbyists, hangers-on, haughty-eyed state officials, WVDOE bureaucrats and the like. People like that are rare, especially among legislators. He wasn't owned by any interest groups (the teacher unions certainly couldn't 'check him out' like a well-used book, a practice they had grown comfortable with under other legislative chairs); he wasn't owned by any agency—indeed, it's more like he used the WVDOE as a check-book; and, he didn't kowtow to the heavy hitters, whether unions (think the school calendar), OEPA (think this year's legislation) or (especially) higher education honchos or Bush Administration spokesman blazing into Dodge City touting the virtues of the federal No Child Left Behind Act. Yet, Mezzatesta allowed those who were willing to grow, even encouraging such. He recognized early on that county boards and superintendents "weren't ready" for NCLB—that their focus was the minutiae of decisionmaking which, of course, it was OK for him and his committee to engage in. (Again, leaders—certainly reformers—often live by double standards.) He and Sen. Jackson permitted WVSBA to make some meaningful school board reforms. Even with his press-published flaws, we'll not have another education chairman like him. Someone original;

someone who owned others but wasn't owned; and, someone who didn't idolize educational topknots. This leads me to my second personal observation...

Pliant Education Officials

- 2) While Mezzatesta wasn't afraid to get 'dirt under the fingernails' in order to achieve his goals, he had in WVDOE finance officials pliant state bureaucrats who, it's apparent from the various press accounts, allowed Mezzatesta to take and make more daring, escalating approaches and paths—the brat with dainty parents analogy. While the Romans can't and shouldn't be judged by Christian standards, shouldn't Stewart and company have received their wake-up call when, it would appear, they would provide Mezzatesta the funds (or policy direction) he wanted some would charge to excess? (At this point, I can hear the steps to the moralizers' thrones creaking under the trodden weight of the pious. Given the *former* milieu in which the Mezzatesta-laden decisions were made, few of us would have acted differently.) Eyre, however, points out some WVDOE officials working for Stewart actually refused the Mezzatesta entreaties for dollars—again these individuals weren't responsible for the entire agency's wellbeing. In the end, I doubt the EC will find Stewart acted improperly, and that's OK. Yet, future HEC/WVDOE coziness will be scrutinized like all get out to use an Appalachian phrase. For folks in the WVDOE it's a different day: The state superintendent's position isn't a surrogate or client position but a rightful, constitutional policy position. (Of course, legislators can and should provide occasional political cover for the state superintendent and vice versa.) This will mean a better-positioned WVBOE in terms of forthright policy input and legislative deference. While it's an over-read to say the WVBOE is divided philosophically, it's not an overstatement to say that the previously-existing Mezzatesta/WVDOE arrangement may have put the WVBOE in a 'smaller' perspective. Those days are over. If nothing else, the state board, given recent events, must exert its leadership over the WVDOE through a well-honed accountability perspective. This may be one good fall-out of the entire Mezzatesta situation—a WVBOE willing to gird its loins, holding department officials more accountable certainly in relations with legislators and other powers that be.

Distancing

- 3) Finally, it's only natural that policymakers will distance themselves from Mezzatesta. True, those who benefited from Mezzatesta's approach should realize that we're all flawed persons. Yet, the lessons are obvious: Power has its limits. Remember Lord Acton's dictum: Power corrupts, but absolute power corrupts absolutely? Malleable, pliant state officials who allow others to assume escalating discretion in agency areas of purview, those aiding or turning blind eyes to power ploys by the powerful, should acknowledge such; and, everyone, sooner or later, is accountable—whether to a WVBOE, the EC, or voters.

The Legacy

Such is the Mezzatesta legacy. Authentic to the core, he won't be replaced. Villain? Victim? Amoral? Moral? By providing easy agency or organizational access, aren't we, as policymakers, largely responsible for at least "sponsoring" if not "creating" Mezzatestas, hoping the arrangements advance our policy ends? The Mezzatestas thus created benefit as well: Through gaining access to our constituents, agencies, organizations, and through their positions, they

Please see THE LEGACY on page 7

‘Omitted variable bias?’

Research Versus Advocacy

By Michael J. Hicks, Ph. D.

In the June 28 edition of *The Legislature* I outlined some of the errors of analysis promulgated by a number of small school advocates in West Virginia. I also noted where important research questions remain unanswered. There are still a few folks who won't permit data to cloud their analysis, so I think that a more direct discussion of the issue is warranted.

Craig Howley, Ph.D.'s [*The Legislature*, July 30] note on school size, poverty and student achievement provides a remarkably concise recapitulation of the errors promulgated on policymakers and the public by his, and others, advocacy efforts. A highlight of these follows:

First, other than my recent research there have been no credible studies of school consolidation performed on West Virginia schools in the past two decades. To be sure, there is much hypothesizing, but actual empirical research that meets the minimum standards of scholarship is wanting. Let me explain.

‘Omitted Variable Analysis’

Howley purports to have conducted research on the ‘multiplicative’ impact of school size and poverty on student performance. Dr. Howley argues that this is, unlike my research, his is a ‘theoretical model.’ That is bunk. The statistical model Dr. Howley and his colleague employs is a simple regression model, like mine, but included only size, poverty and the product of these two variables. This model suffers what is known in statistics as *omitted variable bias*. Simply, variables that would impact the results differently were omitted. This study also suffers from researcher bias, but I'll get to that later. Perhaps an example from engineering would provide a better explanation.

Suppose I wanted to test the impact different colored paints have on the aerodynamics of cars. In an ideal world, I'd use identical cars and simply paint them different colors – a controlled experiment. If I couldn't (which is the problem that economists and social scientists have) then I'd have to employ other techniques to control for engine size, automobile shape, wind, humidity, etc., when testing the aerodynamic quality of the paint. If I didn't then the omitted factors, such as the shape of the car and the size of the engine, would distort the results.

Red-Painted Corvette

What Howley presents is exactly this type of error. He has ignored some of the most salient features of school performance in favor of those most likely to be biased in high schools. He uses the improbably undercounted free and reduced lunch data, which is so poor as to be nearly universally dismissed (how many high school students enroll in the free and reduced lunch program?). Perhaps most egregiously, he creates a categorical variable for size. In this way, Howley can decide what schools are big and small instead permitting the data to guide him. *The result is the intellectual equivalent of telling us that the red paint on a Corvette is responsible for it driving faster than my blue minivan.*

There is more. Howley uses a single 1988 study by Fiedkin and Necochea on California schools. By reading my bibliography, he knows that there are several dozen additional studies that examine

school size, finding (as do I and Ms. [Viktoriya] Rusalkina, [co-author of the Hicks' study]) that there is no negative correlation or interaction between school size and performance. This type of inconsistency is true with Howley's claim to a doctorate. Is it an Ed.D. or Ph.D.? Both are honorable, but only one is a research degree.

Replication

Howley also argues that replication is important in science. He's right, but failed to note that a 2002 study by the Washington School Research Center attempted to replicate his study. They flatly rejected the correlation between school size and performance (though they did find, as did I, that district size did have an influence on performance). Because of the flaws I outline above, I don't believe that directly replicating Howley's study is useful, but, those who do have been unable to replicate its findings.

‘Better Statistics Understanding’

Howley's selective review of my research is also wanting for a better understanding of statistics. First, as he notes I characterize the statistical technique I used as unsophisticated. That is true, but sadly it is several decades more sophisticated than the most advanced one used by Howley in his research. Second, he indicts economics as a field that studies money. Money, of course, is an inanimate object so hardly worthy of much study. Instead economists study human behavior, and classrooms provide the single biggest interaction between government and its citizens. This may be why economists dominate the policy realm of education, while education researchers provide pedagogical research.

In the final analysis, policymakers across the country will have to wrestle with the challenges of evaluating research on the issue and make tough decisions about allocating scarce resources. And one thing is for sure: there will never be a shortage of “experts” on any issue. It really comes down to a matter of trust.

The Center for Business and Economic Research is a nationally respected organization that provides unbiased policy research on a number of issues. Our reputation is fostered by generating high quality research on substantive policy issues. This is why the National Academy of Sciences, the United States Senate, several Federal Agencies, the West Virginia Legislature and several state agencies have asked us to perform analysis for them. While our research clearly suggests a minimal role between school size and performance in West Virginia's high schools, we have no dog in the consolidation fight. Indeed, the research findings we report are the least likely to provide use personal gain or institutional support.

In contrast, Howley is a small schools advocate. His academic position and his portfolio of writings all speak to advocacy for small schools. There is simply nothing else in his writing other than a deep, transparent, and apparently heartfelt desire to see small rural schools proliferate.

I admire Howley for possessing strong feelings on this subject. However, if you believe his research on school size and performance, then you'll love the Bacon and Ham League's research on low-carb diets.

— Hicks is an official with the Marshall University Center for Business and Economic Research.

NOTE: Howley will be provided opportunity to respond.

- Opinion -

Digest Mentality Plays Part in Uproar

The following is a reprint of the “Statehouse Beat” which is written by Phil Kabler, a *Charleston Gazette* reporter who covers the Legislature. The original article appeared in the Monday, August 9, 2004, issue of the *Charleston Gazette* under the headline, “Digest Mentality Plays Part in Uproar.” Reprinted with permission.

Kabler writes:

“Whatever comes of the various controversies surrounding House Education Chairman Jerry Mezzatesta, D-Hampshire, much of what has occurred can be blamed on the Budget Digest mentality that’s pervasive in the Legislature.

The Budget Digest mentality? That’s finding the easiest, most expeditious means to reach the desired end, even if it bends the letter or the spirit of the law.

Example: Let’s say a legislator wants \$10,000 to fund repairs to a municipal swimming pool in his district.

The standard, ‘how-a-bill-becomes law’ route would be to submit an appropriations bill for the \$10,000. Of course, that avenue is full of pitfalls: Other legislators might question whether the project is the highest and best use of taxpayer dollars, and could kill the bill. Or the finance chairman might decide a municipal pool in his district needs some fixing up, too, and amend the bill to divert half of that \$10,000 to his district.

The Budget Digest process is a subterfuge that lets the legislator avoid those problems entirely. He simply submits the \$10,000 among his digest requests, bends the ear of a friendly digest conferee, and voila, the Budget Digest materializes in late June with his \$10,000 allocation intact.

Legislators often apply the Budget Digest mentality to other legislation. Lawmakers short-circuited the traditional legislative process even with the Pharmaceutical Availability and Affordability Act—arguably the best bill to come out of the 2004 session, and potentially a landmark piece of legislation.

After weeks of working in secret—there were rumors that a major drug cost-control bill was in the works—the bill suddenly materialized in the House Finance Committee, bypassing bill introduction and assignment to the Health and Human Resources Committee.

Supporters of the bill insisted that they had to take the subterranean route, because powerful drug industry lobbyists would have had more opportunity to kill the bill had it gone through the traditional process.

Mezzatesta’s Education Committee is notorious for such subterfuges.

This was the committee that slipped a 241-page amendment giving community colleges greater autonomy into an otherwise innocuous rules bill. Why the stealth was necessary was never clear, since most higher education policy leaders concluded that the bill was the next logical step toward the goal of making two-year colleges programs more available and affordable for West Virginians.

Same goes for the widely praised bill creating a pilot project to make improvements at as many as 30 elementary and middle schools statewide with significant enrollments of disadvantaged and minority students. That bill suddenly materialized in Education Committee one day, even though there is little doubt it would have passed had it gone through the traditional bill introduction process.

As one lobbyist told me, Mezzatesta’s actions are not immoral, they’re simply amoral—achieving the ultimate goal justifies whatever means are necessary to reach that end.

Clearly, the climate of distrust for the open legislative process—the Budget Digest mentality—is a major reason why the Legislature, and the House in particular, finds itself embroiled in controversy.”

NOTE: W. Va. School Boards Association Executive Director Howard M. O’Cull, Ed.D., has initiated a study of education Budget Digest funding, with a report now being prepared for the organization’s Committee on Legislation.

Clarification

The article, “West Virginia Wants to Know: Group Finds New Focus - Spending Abuses,” published in the June 28 issue of *The Legislature* implies that WVWTK has “ties” with the small schools group, Challenge West Virginia. According to representatives of both groups, the organizations have separate missions, identities and goals, and have no formal ties through their leaderships, although the organizations may have a presence or chapters in the same counties.

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jason@keelingstrategic.com

Williamson Shriver Gandee Architects Inc.

Charleston, WV
www.wsgarch.com
Contact: Joe Evans
jevans@wsgarch.com

W.Va. Assistive Technology System

Morgantown, WV
Contact: Jeanne Grimm
jgrimm@hsc.wvu.edu

GOLD

E.T. Boggess Architect, Inc.

Princeton, WV
www.etbarchitects.com
Contact: Todd Boggess, AIA
todd@etbarchitects.com

Turner Construction Company

Pittsburgh, PA
www.turnerconstruction.com
Contact: Betsy Kane
bkane@tcco.com

SILVER

AEL Inc.

Charleston, WV
www.ael.org
Contact: Dr. Keith Smith
smithk@ael.org

Dell

Lexington, KY
www.dell.com/k12
Contact: Kristen Reed
kristen_reed@dell.com

Maffei Strayer Furnishings

Pittsburgh, PA
www.mstrayerfum.com
Contact: Lindsay Marler
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*Interested businesses and organizations may contact
Jason Keeling at 304.989.3262 for affiliate details.*

THE LEGACY

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can capitalize on policy initiatives beneficial to their interests, with both parties having a potential win/win situation. These inherent legislative/agency arrangements if becoming “unbalanced,” lopsided or exploitative by either party usually crumble, as the arrangement “naturally” seeks balance (the homeostasis mentioned earlier). (In the case of board/agency arrangements, a struggle may emerge as policy tensions grow.) That’s when we, the pliant, are prone to shop for another legislator, policymaker or official who’ll appreciate our appetite for policy validation through whatever agency or organizational largess and access we can provide him or her. Why? Partly because only policymakers can truly secure our goals and partly because it makes policy leadership easier. To “go independent,” then hoping to carve out our own policy territory

without policymakers’ nods means we’re operating in policy territory that’s easy prey to others; territory having to be defended; and territory that comes with a price—the advertised price of our having staked out *an* independence of sorts, which changes the established game rules. For this reason, we may be prone to choose the dubitative approach with higher-ups, especially funders. In many ways it’s easier and a Helluva lot less complicated but prone to lopsidedness.

While it’s too early to tell whether or not we’ve learned from the Mezzatesta mess, let’s not allow this legislator to become our ‘identified patient’ to use a family therapy term. Don’t we all need an occasional checkup?

— *O’Cull is W. Va. School Boards Association executive director.*

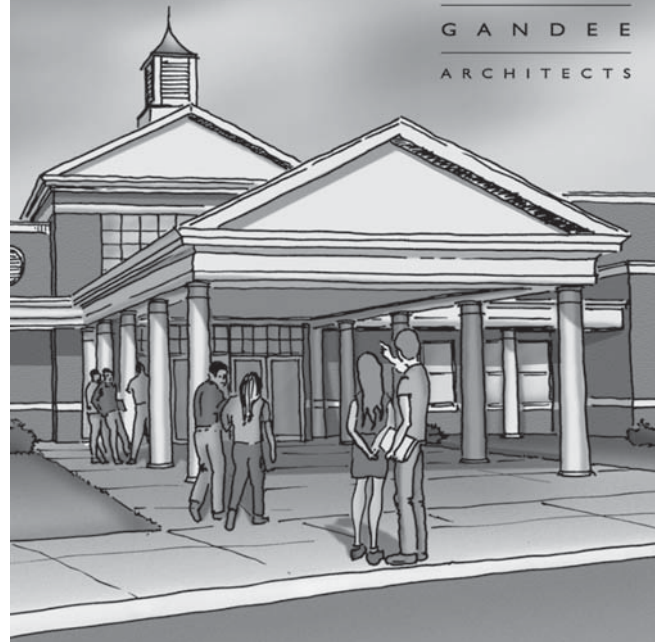


50th Anniversary Conference
Charleston Marriott Hotel
September 10/11

VISIT THE EXHIBITOR RECEPTION
Sept. 10, 5:45 - 7:00 p.m.
(Raffle prizes will be awarded!)

50th Anniversary Banquet immediately following.

Spring Mills Middle School
Berkeley County Board of Education
Manny P. Arvon, II - Superintendent



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The Legislature

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