

H. B. 2632

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[Introduced February 6, 2015; referred to the
Committee on Education; then on to the Committee on Finance.]

A BILL to amend and reenact §5A-3-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-2E-7 of said code; and to amend and reenact §18-9A-10 of said code, all relating to procurement of instructional materials, digital content resources, instructional technology, hardware, software, telecommunications and technical services for use in and in support of public schools; exempting procurement of these items from division of purchasing requirements; removing outdated language and updating name of state technology plan; requiring the State Board of Education to

define “equitable distribution;” requiring certain technology tools to adhere to state contract prices; adding personalized learning as potential student use for technology; providing for technology system specialists; and removing expired transitional funding language and references to the twenty-first century.

Be it enacted by the Legislature of West Virginia:

That §5A-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18-2E-7 of said code be amended and reenacted; and that §18-9A-10 of said code be amended and reenacted, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-1. Division created; purpose; director; applicability of article; continuation.

1 (a) The Purchasing Division within the Department of
2 Administration is continued. The underlying purposes and
3 policies of the Purchasing Division are:

4 (1) To establish centralized offices to provide
5 purchasing and travel services to the various state agencies;

6 (2) To simplify, clarify and modernize the law governing
7 procurement by this state;

- 8 (3) To permit the continued development of procurement
9 policies and practices;
- 10 (4) To make as consistent as possible the procurement rules
11 and practices among the various spending units;
- 12 (5) To provide for increased public confidence in the
13 procedures followed in public procurement;
- 14 (6) To ensure the fair and equitable treatment of all persons
15 who deal with the procurement system of this state;
- 16 (7) To provide increased economy in procurement activities
17 and to maximize to the fullest extent practicable the purchasing
18 value of public funds;
- 19 (8) To foster effective broad-based competition within the
20 free enterprise system;
- 21 (9) To provide safeguards for the maintenance of a
22 procurement system of quality and integrity; and
- 23 (10) To obtain in a cost-effective and responsive manner the
24 commodities and services required by spending units in order for
25 those spending units to better serve this state's businesses and
26 residents.

27 (b) The Director of the Purchasing Division shall, at the time
28 of appointment:

29 (1) Be a graduate of an accredited college or university; and

30 (2) Have spent a minimum of ten of the fifteen years
31 immediately preceding his or her appointment employed in an
32 executive capacity in purchasing for any unit of government or
33 for any business, commercial or industrial enterprise.

34 (c) The provisions of this article apply to all of the spending
35 units of state government, except as otherwise provided by this
36 article or by law.

37 (d) The provisions of this article do not apply to the judicial
38 branch, the legislative branch, to purchases of stock made by the
39 Alcohol Beverage Control Commissioner and to purchases of
40 textbooks , for instructional materials, digital content resources,
41 instructional technology, hardware, software, telecom-
42 munications and technical services by the State Board of
43 Education for use in and in support of the public schools.

44 (e) The provisions of this article apply to every expenditure
45 of public funds by a spending unit for commodities and services
46 irrespective of the source of the funds.

CHAPTER 18. EDUCATION.**ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.****§18-2E-7. Providing for ~~twenty-first century~~ instruction and learning in all public schools.**

1 (a) The Legislature finds that:

2 (1) The knowledge and skills children need to succeed ~~in the~~
3 ~~twenty-first century~~ are changing dramatically and that West
4 Virginia students must develop proficiency in ~~twenty-first~~
5 ~~century~~ the subject matter content, technology tools and learning
6 skills to succeed and prosper in life, in school and on the job;

7 (2) Students must be equipped to live in a multitasking,
8 multifaceted, technology-driven world;

9 (3) The provision of ~~twenty-first century~~ technologies and
10 software resources in grades prekindergarten through twelve is
11 necessary to meet the goal that high school graduates will be
12 prepared fully for college, other post-secondary education or
13 gainful employment;

14 (4) This goal reflects a fundamental belief that the youth of
15 the state exit the system equipped with the skills, competencies
16 and attributes necessary to succeed, to continue learning
17 throughout their lifetimes and to attain self-sufficiency;

18 (5) To promote ~~twenty-first century~~ learning, teachers must
19 be competent in ~~twenty-first century~~ content and learning skills
20 and must be equipped to fully integrate technology to transform
21 instructional practice and to support ~~twenty-first century~~ skills
22 acquisition;

23 (6) For students to learn ~~twenty-first century~~ technology
24 skills, students and teachers must have equitable access to high
25 quality, ~~twenty-first century~~ technology tools and resources;

26 (7) When aligned with standards and curriculum,
27 technology-based assessments can be a powerful tool for
28 teachers; and

29 (8) Teachers must understand how to use technology to
30 create classroom assessments for accurate, timely measurements
31 of student proficiency in attainment of academic content. ~~and~~
32 ~~twenty-first century skills~~

33 (b) The state board shall ensure that the resources to be used
34 to provide technology services to students in grades
35 prekindergarten through twelve are included in a West Virginia
36 ~~21st Century Strategic Technology Learning Plan~~ to be
37 developed by the Department of Education as an integral

38 component of the county electronic strategic improvement plan
39 required in section five of this article. The provision of
40 technologies and services to students and teachers shall be based
41 on a county technology plan developed by a team that includes
42 school building-level professional educators and is aligned with
43 the goals and objectives of the West Virginia ~~21st Century~~
44 Strategic Technology Learning Plan. This plan shall be an
45 integral component of the county electronic strategic
46 improvement plan as required in section five of this article.
47 Funds shall be allocated equitably to county school systems
48 following peer review of the plans that includes providing
49 necessary technical assistance prior to submission and allows
50 timely review and approval by the West Virginia Department of
51 Education. ~~Technology tools, including hardware, software,~~
52 ~~network cabling, network electronics and related professional~~
53 ~~development, shall be purchased pursuant to the provisions of~~
54 ~~article three, chapter five-a of this code in the amount equal to~~
55 ~~anticipated revenues being appropriated and based on the~~
56 ~~approved county plans. County allocations that support this~~
57 ~~legislation~~ Equitable allocation shall be defined by the state
58 board and may include per school-site equity for technologies

59 requiring a site license or other per school application.
60 Technology tools purchased from appropriations for this section
61 shall adhere to state contract prices: *Provided*, That contingent
62 upon approval of the county technology plan, counties that
63 identify, within that plan, specific software or peripheral
64 equipment not listed on the state contract, but necessary to
65 support implementation, ~~of twenty-first century skills~~, may
66 request the West Virginia Department of Education to secure
67 state purchasing prices for those identified items. Total
68 expenditure to purchase these additional items may not exceed
69 ten percent of the annual county allocation. To the extent
70 practicable, the technology shall be used:

71 (1) To maximize student access to learning tools and
72 resources at all times including during regular school hours,
73 before and after school or class, in the evenings, on weekends
74 and holidays and for public education, noninstructional days and
75 during vacations; and

76 (2) For student use for homework, remedial work,
77 personalized learning, independent learning, career planning and
78 adult basic education.

79 (c) The implementation of this section should provide a
80 technology infrastructure capable of supporting multiple
81 technology-based learning strategies designed to enable students
82 to achieve at higher academic levels. The technology
83 infrastructure should facilitate student development by
84 addressing the following areas:

85 (1) Mastery of rigorous core academic subjects in grades
86 prekindergarten through eight by providing software, other
87 technology resources or both aligned with state standards in
88 reading, mathematics, writing, science, social studies
89 ~~twenty-first century learning skills and twenty-first century~~ and
90 learning tools;

91 (2) Mastery of rigorous core academic subjects in grades
92 nine through twelve by providing appropriate ~~twenty-first~~
93 ~~century~~ technology tools aligned with state standards for
94 learning skills and technology tools;

95 (3) Attainment of ~~twenty-first century~~ skill outcomes for all
96 students in the use of technology tools and learning skills;

97 (4) Proficiency in new, emerging ~~twenty-first century~~
98 content;

109 (5) Participation in relevant, contextual instruction that uses
100 dynamic, real-world contexts that are engaging and meaningful
101 for students, making learning relevant to life outside of school
102 and bridging the gap between how students live and how they
103 learn in school;

104 (6) Ability to use digital and emerging technologies to
105 manage information, communicate effectively, think critically,
106 solve problems, work productively as an individual and
107 collaboratively as part of a team and demonstrate personal
108 accountability and other self-directional skills;

109 (7) Providing students with information on post-secondary
110 educational opportunities, financial aid and the skills and
111 credentials required in various occupations that will help them
112 better prepare for a successful transition following high school;

113 (8) Providing greater access to advanced and other curricular
114 offerings than could be provided efficiently through traditional
115 on-site delivery formats, including increasing student access to
116 quality distance learning curricula and online distance education
117 tools;

118 (9) Providing resources for teachers in differentiated
119 instructional strategies, technology integration, sample lesson
120 plans, curriculum resources and online staff development that
121 enhance student achievement; and

122 (10) Providing resources to support basic skills acquisition
123 and improvement at the above mastery and distinguished levels.

124 (d) Developed with input from appropriate stakeholder
125 groups, the West Virginia ~~21st-Century~~ Strategic Technology
126 Learning Plan shall be an integral component of the electronic
127 strategic county improvement plan as required in section five of
128 this article. The West Virginia ~~21st-Century~~ Strategic
129 Technology Learning Plan shall be comprehensive and shall
130 address, but not necessarily be limited to, the following
131 provisions:

132 (1) Allocation of adequate resources to provide students with
133 equitable access to ~~twenty-first century~~ technology tools,
134 including instructional offerings and appropriate curriculum,
135 assessment and technology integration resources aligned to both
136 the content and rigor of state content standards as well as to
137 learning skills and technology tools;

138 (2) Providing students and staff with equitable access to a
139 technology infrastructure that supports the acquisition of
140 ~~twenty-first century~~ skills in the use of technology, including the
141 ability to access information, solve problems, communicate
142 clearly, make informed decisions, acquire new knowledge,
143 construct products, reports and systems and access online
144 assessment systems;

145 (3) Inclusion of various technologies that enable and
146 enhance the attainment of ~~twenty-first century~~ the skills
147 outcomes for all students;

148 (4) Collaboration with various partners, including parents,
149 community organization, higher education, schools of education
150 in colleges and universities, employers and content providers;

151 (5) Seeking of applicable federal government funds,
152 philanthropic funds, other partnership funds or any combination
153 of those types of funds to augment state appropriations and
154 encouraging the pursuit of funding through grants, gifts,
155 donations or any other sources for uses related to education
156 technology;

157 (6) Sufficient bandwidth to support teaching and learning
158 and to provide satisfactorily for instructional management needs;

159 (7) Protection of the integrity and security of the network, as
160 well as student and administrative workstations;

161 (8) Flexibility to adjust the plan based on developing
162 technology, federal and state requirements and changing local
163 school and county needs;

164 (9) Incorporation of findings based upon validation from
165 research-based evaluation findings from previous West
166 Virginia-based evaluation projects;

167 (10) Continuing study of emerging technologies for
168 application in a ~~twenty-first century~~ learning environment and
169 inclusion in the technology plan, as appropriate;

170 (11) An evaluation component to determine the effectiveness
171 of the program and make recommendations for ongoing
172 implementation;

173 (12) A program of embedded, sustained professional
174 development for teachers that is strategically developed to
175 support a ~~twenty-first century~~ thorough and efficient education
176 for all students and that aligns with state standards for

177 technology, integrates ~~twenty-first century~~ technology skills into
178 educational practice and supports the implementation of
179 ~~twenty-first century~~ software, technology and assessment
180 resources in the classroom;

181 (13) Providing for uniformity in technological hardware and
182 software standards and procedures;

183 (14) The strategy for ensuring that the capabilities and
184 capacities of the technology infrastructure is adequate for
185 acceptable performance of the technology being implemented in
186 the public schools;

187 (15) Providing for a comprehensive, statewide uniform,
188 integrated education management and information system for
189 data collection and reporting to the Department of Education ~~as~~
190 ~~provided in section twenty-six, article two of this chapter and~~
191 ~~commonly referred to as the West Virginia Education~~
192 ~~Information System~~ and the public;

193 (16) Providing for an effective model for the distance
194 delivery, virtual delivery or both types of delivery of instruction
195 in subjects where there exists low student enrollment or a
196 shortage of certified teachers or where the delivery method

197 substantially improves the quality of an instructional program
198 such as the West Virginia Virtual School;

199 (17) Providing a strategy to implement, support and maintain
200 technology in the public schools;

201 (18) Providing a strategy to provide ongoing support and
202 assistance to teachers in integrating technology into ~~twenty-first~~
203 ~~century~~ instruction such as with technology integration
204 specialists and technology system specialists;

205 (19) A method of allowing public education to take
206 advantage of appropriate bulk purchasing abilities and to
207 purchase from competitively bid contracts initiated through the
208 southern regional education board educational technology
209 cooperative and the America TelEdCommunications Alliance;

210 (20) Compliance with United States Department of
211 Education regulations and Federal Communications Commission
212 requirements for federal E-rate discounts; and

213 (21) Other provisions as considered appropriate, necessary
214 or both to align with applicable guidelines, policies, rules,
215 regulations and requirements of the West Virginia Legislature,
216 the Board of Education and the Department of Education.

217 (e) Any state code and budget references to the Basic
218 Skills/Computer Education Program and the SUCCESS Initiative
219 will be understood to refer to the statewide technology initiative
220 referenced in this section, commonly referred to as the 21st
221 Century Tools for 21st Century Schools Technology Initiative.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. Foundation allowance to improve instructional programs.

- 1 (a) The total allowance to improve instructional programs
2 shall be the sum of the following:
- 3 (1) For instructional improvement, in accordance with
4 county and school electronic strategic improvement plans
5 required by section five, article two-e of this chapter, ~~an amount~~
6 ~~equal to fifteen percent of the increase in the local share amount~~
7 ~~for the next school year above any required allocation pursuant~~
8 ~~to section six-b of this article shall be added to the amount of the~~
9 ~~appropriation for this purpose for the immediately preceding~~
10 ~~school year: *Provided*, That effective July 1, 2014, an amount~~
11 ~~equal to ten percent of the increase in the local share amount for~~
12 ~~the next school year above any required allocation pursuant to~~

13 section six-b of this article shall be added to the amount of the
14 appropriation for this purpose for the immediately preceding
15 school year. The sum of these amounts shall be distributed to the
16 counties as follows:

17 (A) One hundred fifty thousand dollars shall be allocated to
18 each county; and

19 (B) Distribution to the counties of the remainder of these
20 funds shall be made proportional to the average of each county's
21 average daily attendance for the preceding year and the county's
22 second month net enrollment.

23 Moneys allocated by provision of this subdivision shall be
24 used to improve instructional programs according to the county
25 and school strategic improvement plans required by section five,
26 article two-e of this chapter and approved by the state board:

27 *Provided*, That notwithstanding any other provision of this code
28 to the contrary, moneys allocated by provision of this section
29 also may be used in the implementation and maintenance of the
30 uniform integrated regional computer information system.

31 Up to twenty-five percent of this allocation may be used to
32 employ professional educators and service personnel in counties

33 after all applicable provisions of sections four and five of this
34 article have been fully utilized.

35 Prior to the use of any funds from this subdivision for
36 personnel costs, the county board must receive authorization
37 from the state superintendent. The state superintendent shall
38 require the county board to demonstrate: (1) The need for the
39 allocation; (2) efficiency and fiscal responsibility in staffing; (3)
40 sharing of services with adjoining counties and the regional
41 educational service agency for that county in the use of the total
42 local district board budget; and (4) employment of technology
43 integration specialists to meet the needs for implementation of
44 the West Virginia 21st Century Strategic Technology Learning
45 Plan. County boards shall make application for the use of funds
46 for personnel for the next fiscal year by May 1 of each year. On
47 or before June 1, the state superintendent shall review all
48 applications and notify applying county boards of the approval
49 or disapproval of the use of funds for personnel during the fiscal
50 year appropriate. The state superintendent shall require the
51 county board to demonstrate the need for an allocation for

52 personnel based upon the county's inability to meet the
53 requirements of state law or state board policy.

54 The provisions relating to the use of any funds from this
55 subdivision for personnel costs are subject to the following: (1)
56 The funds available for personnel under this subsection may not
57 be used to increase the total number of professional
58 noninstructional personnel in the central office beyond four; and
59 (2) For the school year beginning July 1, 2013, and thereafter,
60 any funds available to a county for use for personnel under this
61 subsection above the amount available for the 2012-2013 school
62 year, only may be used for technology systems specialists until
63 the state superintendent determines that the county has sufficient
64 technology systems specialists to serve the needs of the county.

65 The plan shall be made available for distribution to the
66 public at the office of each affected county board; plus

67 (2) For the purposes of improving instructional technology,
68 ~~an amount equal to fifteen percent of the increase in the local~~
69 ~~share amount for the next school year above any required~~
70 ~~allocation pursuant to section six-b of this article shall be added~~
71 ~~to the amount of the appropriation for this purpose for the~~

72 ~~immediately preceding school year: *Provided, That effective*~~
73 ~~July 1, 2014,~~ an amount equal to twenty percent of the increase
74 in the local share amount for the next school year above any
75 required allocation pursuant to section six-b of this article shall
76 be added to the amount of the appropriation for this purpose for
77 the immediately preceding school year. The sum ~~of these~~
78 ~~amounts shall be allocated to the counties as provided in section~~
79 ~~seven, article two-c of this chapter to meet the objectives of the~~
80 ~~West Virginia 21st Century Strategic Technology Learning Plan:~~
81 ~~*Provided, That effective July 1, 2014,* the sum of these amounts~~
82 shall be distributed to the counties as follows:

83 (A) Thirty thousand dollars shall be allocated to each county;

84 and

85 (B) Distribution to the counties of the remainder of these
86 funds shall be made proportional to the average of each county's
87 average daily attendance for the preceding year and the county's
88 second month net enrollment.

89 Effective July 1, 2014, moneys allocated by provision of this
90 subdivision shall be used to improve instructional technology

91 programs according to the county and school strategic
92 improvement plans; plus

93 (3) One percent of the state average per pupil state aid
94 multiplied by the number of students enrolled in dual credit,
95 advanced placement and international baccalaureate courses, as
96 defined by the state board, distributed to the counties
97 proportionate to enrollment in these courses in each county; plus

98 (4) An amount not less than the amount required to meet
99 debt service requirements on any revenue bonds issued prior to
100 January 1, 1994, and the debt service requirements on any
101 revenue bonds issued for the purpose of refunding revenue bonds
102 issued prior to January 1, 1994, shall be paid into the School
103 Building Capital Improvements Fund created by section six,
104 article nine-d of this chapter and shall be used solely for the
105 purposes of that article. The School Building Capital
106 Improvements Fund shall not be utilized to meet the debt
107 services requirement on any revenue bonds or revenue refunding
108 bonds for which moneys contained within the School Building
109 Debt Service Fund have been pledged for repayment pursuant to
110 that section.

111 (b) When the school improvement bonds secured by funds
112 from the School Building Capital Improvements Fund mature,
113 the state Board of Education shall annually deposit an amount
114 equal to \$24,000,000 from the funds allocated in this section into
115 the School Construction Fund created pursuant to the provisions
116 of section six, article nine-d of this chapter to continue funding
117 school facility construction and improvements.

118 (c) Any project funded by the School Building Authority
119 shall be in accordance with a comprehensive educational facility
120 plan which must be approved by the state board and the School
121 Building Authority.

NOTE: The purpose of this bill is to exempt the procurement of instructional materials, digital content resources, instructional technology, hardware, software, telecommunications and technical services for use in and in support of public schools from the division of purchasing requirements. The bill removes outdated language and updating name of state technology plan. The bill requires the State Board of Education to define "equitable distribution." The bill requires certain technology tools to adhere to state contract prices. The bill adds personalized learning as potential student use for technology. The bill provides for technology system specialists. The bill removes expired transitional funding language and references to the twenty-first century.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

