

**H. B. 2954**

(By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)  
[By Request of the Executive]  
[Introduced February 1, 2011; referred to the  
Committee on Education then Finance.]

10 A BILL to amend and reenact §18-9D-15 of the Code of West Virginia,  
11 1931, as amended; and to amend said code by adding thereto a  
12 new section, designated §18-9D-19a, all relating to  
13 comprehensive middle schools; allowing, upon application by a  
14 county board of education, the School Building Authority to  
15 allocate and expend certain moneys for school major  
16 improvement projects for vocational programs at comprehensive  
17 middle schools; providing legislative findings; defining  
18 comprehensive middle school; requiring the authority, when  
19 planning the construction of a middle or junior high school,  
20 to provide funding for comprehensive career technical  
21 education facilities to be located, when feasible, on the same  
22 site as the middle or junior high school under certain  
23 conditions; requiring the authority, upon application of a  
24 county board to construct comprehensive career technical

1 education facilities at an existing middle or junior high  
 2 school, to provide technical assistance to the county in  
 3 developing a plan for construction of the comprehensive career  
 4 technical education facility; and requiring, upon development  
 5 of the plan, the authority to consider funding based on  
 6 certain criteria.

7 *Be it enacted by the Legislature of West Virginia:*

8 That §18-9D-15 of the Code of West Virginia, 1931, as amended,  
 9 be amended and reenacted; and that said code be amended by adding  
 10 thereto a new section, designated §18-9D-19a, all to read as  
 11 follows:

12 **ARTICLE 9D. SCHOOL BUILDING AUTHORITY.**

13 **§18-9D-15. Legislative intent; allocation of money among**  
 14 **categories of projects; lease-purchase options;**  
 15 **limitation on time period for expenditure of**  
 16 **project allocation; county maintenance budget**  
 17 **requirements; project disbursements over period of**  
 18 **years; preference for multicounty arrangements;**  
 19 **submission of project designs; set-aside to**  
 20 **encourage local participation.**

21 (a) It is the intent of the Legislature to empower the School  
 22 Building Authority to facilitate and provide state funds and to  
 23 administer all federal funds provided for the construction and  
 24 major improvement of school facilities so as to meet the

1 educational needs of the people of this state in an efficient and  
2 economical manner. The authority shall make funding determinations  
3 in accordance with the provisions of this article and shall assess  
4 existing school facilities and each facility's school major  
5 improvement plan in relation to the needs of the individual  
6 student, the general school population, the communities served by  
7 the facilities and facility needs statewide.

8 (b) An amount that is not more than three percent of the sum  
9 of moneys that are determined by the authority to be available for  
10 distribution during the then current fiscal year from:

11 (1) Moneys paid into the School Building Capital Improvements  
12 Fund pursuant to section ten, article nine-a of this chapter;

13 (2) The issuance of revenue bonds for which moneys in the  
14 School Building Debt Service Fund or the Excess Lottery School  
15 Building Debt Service Fund are pledged as security;

16 (3) Moneys paid into the School Construction Fund pursuant to  
17 section six of this article; and

18 (4) Any other moneys received by the authority, except moneys  
19 paid into the School Major Improvement Fund pursuant to section six  
20 of this article and moneys deposited into the School Access Safety  
21 Fund pursuant to section five, article nine-f of this chapter, may  
22 be allocated and may be expended by the authority for projects  
23 authorized in accordance with the provisions of section sixteen of  
24 this article that service the educational community statewide or,

1 upon application by the state board, for educational programs that  
2 are under the jurisdiction of the state board. In addition, upon  
3 application by the state board or the administrative council of an  
4 area vocational educational center established pursuant to article  
5 two-b of this chapter, the authority may allocate and expend under  
6 this subsection moneys for school major improvement projects  
7 authorized in accordance with the provisions of section sixteen of  
8 this article proposed by the state board or an administrative  
9 council for school facilities under the direct supervision of the  
10 state board or an administrative council, respectively.

11 Furthermore, upon application by a county board, the authority may  
12 allocate and expend under this subsection moneys for school major  
13 improvement projects for vocational programs at comprehensive high  
14 schools, vocational programs at comprehensive middle schools,  
15 vocational schools cooperating with community and technical college  
16 programs, or ~~both~~ any combination of the three. Each county board  
17 is encouraged to cooperate with community and technical colleges in  
18 the use of existing or development of new vocational technical  
19 facilities. All projects eligible for funds from this subsection  
20 shall be submitted directly to the authority which shall be solely  
21 responsible for the project's evaluation, subject to the following:

22 (A) The authority may not expend any moneys for a school major  
23 improvement project proposed by the state board or the  
24 administrative council of an area vocational educational center

1 unless the state board or an administrative council has submitted  
2 a ten-year facilities plan; and

3 (B) The authority shall, before allocating any moneys to the  
4 state board or the administrative council of an area vocational  
5 educational center for a school improvement project, consider all  
6 other funding sources available for the project.

7 (c) An amount that is not more than two percent of the moneys  
8 that are determined by the authority to be available for  
9 distribution during the current fiscal year from:

10 (1) Moneys paid into the School Building Capital Improvements  
11 Fund pursuant to section ten, article nine-a of this chapter;

12 (2) The issuance of revenue bonds for which moneys in the  
13 School Building Debt Service Fund or the Excess Lottery School  
14 Building Debt Service Fund are pledged as security;

15 (3) Moneys paid into the School Construction Fund pursuant to  
16 section six of this article; and

17 (4) Any other moneys received by the authority, except moneys  
18 deposited into the School Major Improvement Fund and moneys  
19 deposited into the School Access Safety Fund pursuant to section  
20 five, article nine-f of this chapter, shall be set aside by the  
21 authority as an emergency fund to be distributed in accordance with  
22 the guidelines adopted by the authority.

23 (d) An amount that is not more than five percent of the moneys  
24 that are determined by the authority to be available for

1 distribution during the current fiscal year from:

2       (1) Moneys paid into the School Building Capital Improvements  
3 Fund pursuant to section ten, article nine-a of this chapter;

4       (2) The issuance of revenue bonds for which moneys in the  
5 School Building Debt Service Fund or the Excess Lottery School  
6 Building Debt Service Fund are pledged as security;

7       (3) Moneys paid into the School Construction Fund pursuant to  
8 section six of this article; and

9       (4) Any other moneys received by the authority, except moneys  
10 deposited into the School Major Improvement Fund and moneys  
11 deposited into the School Access Safety Fund pursuant to section  
12 five, article nine-f of this chapter, may be reserved by the  
13 authority for multiuse vocational-technical education facilities  
14 projects that may include post-secondary programs as a first  
15 priority use. The authority may allocate and expend under this  
16 subsection moneys for any purposes authorized in this article on  
17 multiuse vocational-technical education facilities projects,  
18 including equipment and equipment updates at the facilities,  
19 authorized in accordance with the provisions of section sixteen of  
20 this article. If the projects approved under this subsection do  
21 not require the full amount of moneys reserved, moneys above the  
22 amount required may be allocated and expended in accordance with  
23 other provisions of this article. A county board, the state board,  
24 an administrative council or the joint administrative board of a

1 vocational-technical education facility which includes post-  
2 secondary programs may propose projects for facilities or  
3 equipment, or both, which are under the direct supervision of the  
4 respective body: *Provided*, That the authority shall, before  
5 allocating any moneys for a project under this subsection, consider  
6 all other funding sources available for the project.

7 (e) The remaining moneys determined by the authority to be  
8 available for distribution during the then current fiscal year  
9 from:

10 (1) Moneys paid into the School Building Capital Improvements  
11 Fund pursuant to section ten, article nine-a of this chapter;

12 (2) The issuance of revenue bonds for which moneys in the  
13 School Building Debt Service Fund or the Excess Lottery School  
14 Building Debt Service Fund are pledged as security;

15 (3) Moneys paid into the School Construction Fund pursuant to  
16 section six of this article; and

17 (4) Any other moneys received by the authority, except moneys  
18 deposited into the School Major Improvement Fund and moneys  
19 deposited into the School Access Safety Fund pursuant to section  
20 five, article nine-f of this chapter, shall be allocated and  
21 expended on the basis of need and efficient use of resources for  
22 projects funded in accordance with the provisions of section  
23 sixteen of this article.

24 (f) If a county board proposes to finance a project that is

1 authorized in accordance with section sixteen of this article  
2 through a lease with an option to purchase leased premises upon the  
3 expiration of the total lease period pursuant to an investment  
4 contract, the authority may not allocate moneys to the county board  
5 in connection with the project: *Provided*, That the authority may  
6 transfer moneys to the state board which, with the authority, shall  
7 lend the amount transferred to the county board to be used only for  
8 a one-time payment due at the beginning of the lease term, made for  
9 the purpose of reducing annual lease payments under the investment  
10 contract, subject to the following conditions:

11 (1) The loan shall be secured in the manner required by the  
12 authority, in consultation with the state board, and shall be  
13 repaid in a period and bear interest at a rate as determined by the  
14 state board and the authority and shall have any terms and  
15 conditions that are required by the authority, all of which shall  
16 be set forth in a loan agreement among the authority, the state  
17 board and the county board;

18 (2) The loan agreement shall provide for the state board and  
19 the authority to defer the payment of principal and interest upon  
20 any loan made to the county board during the term of the investment  
21 contract, and annual renewals of the investment contract, among the  
22 state board, the authority, the county board and a lessor, subject  
23 to the following:

24 (A) In the event a county board which has received a loan from



1 the authority for a one-time payment at the beginning of the lease  
2 term does not renew the lease annually until performance of the  
3 investment contract in its entirety is completed, the county board  
4 is in default and the principal of the loan, together with all  
5 unpaid interest accrued to the date of the default, shall, at the  
6 option of the authority, in consultation with the state board,  
7 become due and payable immediately or subject to renegotiation  
8 among the state board, the authority and the county board;

9 (B) If a county board renews the lease annually through the  
10 performance of the investment contract in its entirety, the county  
11 board shall exercise its option to purchase the leased premises;

12 (C) The failure of the county board to make a scheduled  
13 payment pursuant to the investment contract constitutes an event of  
14 default under the loan agreement;

15 (D) Upon a default by a county board, the principal of the  
16 loan, together with all unpaid interest accrued to the date of the  
17 default, shall, at the option of the authority, in consultation  
18 with the state board, become due and payable immediately or subject  
19 to renegotiation among the state board, the authority and the  
20 county board; and

21 (E) If the loan becomes due and payable immediately, the  
22 authority, in consultation with the state board, shall use all  
23 means available under the loan agreement and law to collect the  
24 outstanding principal balance of the loan, together with all unpaid

1 interest accrued to the date of payment of the outstanding  
2 principal balance; and

3       (3) The loan agreement shall provide for the state board and  
4 the authority to forgive all principal and interest of the loan  
5 upon the county board purchasing the leased premises pursuant to  
6 the investment contract and performance of the investment contract  
7 in its entirety.

8       (g) To encourage county boards to proceed promptly with  
9 facilities planning and to prepare for the expenditure of any state  
10 moneys derived from the sources described in this section, any  
11 county board or other entity to whom moneys are allocated by the  
12 authority that fails to expend the money within three years of the  
13 allocation shall forfeit the allocation and thereafter is  
14 ineligible for further allocations pursuant to this section until  
15 it is ready to expend funds in accordance with an approved  
16 facilities plan: *Provided*, That the authority may authorize an  
17 extension beyond the three-year forfeiture period not to exceed an  
18 additional two years. Any amount forfeited shall be added to the  
19 total funds available in the School Construction Fund of the  
20 authority for future allocation and distribution. Funds may not be  
21 distributed for any project under this article unless the  
22 responsible entity has a facilities plan approved by the state  
23 board and the School Building Authority and is prepared to commence  
24 expenditure of the funds during the fiscal year in which the moneys

1 are distributed.

2       (h) The remaining moneys that are determined by the authority  
3 to be available for distribution during the then current fiscal  
4 year from moneys paid into the School Major Improvement Fund  
5 pursuant to section six of this article shall be allocated and  
6 distributed on the basis of need and efficient use of resources for  
7 projects authorized in accordance with the provisions of section  
8 sixteen of this article, subject to the following:

9       (1) The moneys may not be distributed for any project under  
10 this section unless the responsible entity has a facilities plan  
11 approved by the state board and the authority and is to commence  
12 expenditures of the funds during the fiscal year in which the  
13 moneys are distributed;

14       (2) Any moneys allocated to a project and not distributed for  
15 that project shall be deposited in an account to the credit of the  
16 project, the principal amount to remain to the credit of and  
17 available to the project for a period of two years; and

18       (3) Any moneys which are unexpended after a two-year period  
19 shall be redistributed on the basis of need from the School Major  
20 Improvement Fund in that fiscal year.

21       (i) Local matching funds may not be required under the  
22 provisions of this section. However, this article does not negate  
23 the responsibilities of the county boards to maintain school  
24 facilities. To be eligible to receive an allocation of school

1 major improvement funds from the authority, a county board must  
2 have expended in the previous fiscal year an amount of county  
3 moneys equal to or exceeding the lowest average amount of money  
4 included in the county board's maintenance budget over any three of  
5 the previous five years and must have budgeted an amount equal to  
6 or greater than the average in the current fiscal year: *Provided,*  
7 That the state board shall promulgate rules relating to county  
8 boards' maintenance budgets, including items which shall be  
9 included in the budgets.

10       (j) Any county board may use moneys provided by the authority  
11 under this article in conjunction with local funds derived from  
12 bonding, special levy or other sources. Distribution to a county  
13 board, or to the state board or the administrative council of an  
14 area vocational educational center pursuant to subsection (b) of  
15 this section, may be in a lump sum or in accordance with a schedule  
16 of payments adopted by the authority pursuant to guidelines adopted  
17 by the authority.

18       (k) Funds in the School Construction Fund shall first be  
19 transferred and expended as follows:

20       (1) Any funds deposited in the School Construction Fund shall  
21 be expended first in accordance with an appropriation by the  
22 Legislature.

23       (2) To the extent that funds are available in the School  
24 Construction Fund in excess of that amount appropriated in any

1 fiscal year, the excess funds may be expended for projects  
2 authorized in accordance with the provisions of section sixteen of  
3 this article.

4 (1) It is the intent of the Legislature to encourage county  
5 boards to explore and consider arrangements with other counties  
6 that may facilitate the highest and best use of all available  
7 funds, which may result in improved transportation arrangements for  
8 students or which otherwise may create efficiencies for county  
9 boards and the students. In order to address the intent of the  
10 Legislature contained in this subsection, the authority shall grant  
11 preference to those projects which involve multicounty arrangements  
12 as the authority shall determine reasonable and proper.

13 (m) County boards shall submit all designs for construction of  
14 new school buildings to the School Building Authority for review  
15 and approval prior to preparation of final bid documents. A vendor  
16 who has been debarred pursuant to the provisions of sections  
17 thirty-three-a through thirty-three-f, inclusive, article three,  
18 chapter five-a of this code may not bid on or be awarded a contract  
19 under this section.

20 (n) The authority may elect to disburse funds for approved  
21 construction projects over a period of more than one year subject  
22 to the following:

23 (1) The authority may not approve the funding of a school  
24 construction project over a period of more than three years;

1           (2) The authority may not approve the use of more than fifty  
2 percent of the revenue available for distribution in any given  
3 fiscal year for projects that are to be funded over a period of  
4 more than one year; and

5           (3) In order to encourage local participation in funding  
6 school construction projects, the authority may set aside limited  
7 funding, not to exceed \$500,000, in reserve for one additional year  
8 to provide a county the opportunity to complete financial planning  
9 for a project prior to the allocation of construction funds. Any  
10 funding shall be on a reserve basis and converted to a part of the  
11 construction grant only after all project budget funds have been  
12 secured and all county commitments have been fulfilled. Failure of  
13 the county to solidify the project budget and meet its obligations  
14 to the state within eighteen months of the date the funding is set  
15 aside by the authority will result in expiration of the reserve and  
16 the funds shall be reallocated by the authority in the succeeding  
17 funding cycle.

18 **§18-9D-19a. Comprehensive middle schools.**

19           (a) The Legislature finds the following:

20           (1) Students learn more through hands on, applied learning  
21 activities;

22           (2) Career technical education students have a much higher  
23 graduation rate than other students;

24           (3) Although thirty-seven percent of West Virginia middle and

1 junior high school students are enrolled in a form of career  
2 technical education, the number has been dropping by approximately  
3 three thousand students per year; and

4 (4) As the benefits of career technical education have  
5 increased as academics have become more embedded in career  
6 technical education, it is important that career technical  
7 education opportunities be increased at the middle and junior high  
8 school level.

9 (b) "Comprehensive middle school" means middle level education  
10 in grades six through eight that provides students with engaging  
11 learning opportunities where students are provided connections  
12 between what they are learning and what they will learn in high  
13 school and beyond. Middle level education establishes the  
14 foundation for college and career readiness by providing a  
15 comprehensive core curriculum that includes english/language arts,  
16 mathematics, science, social studies. This core curriculum embeds  
17 career exploration and project based career activities where  
18 possible. In addition to the core curriculum rich in development  
19 of strong literacy skills, a comprehensive middle school provides  
20 rich authentic opportunities in the visual and performing arts,  
21 health and wellness, physical education, world languages and career  
22 technical activities. By harnessing the power of technology, the  
23 comprehensive middle school provides personalized learning twenty-  
24 four hours per day and seven days per week that produces evidence

1 of student mastery and progression through an individualized  
2 digital student profile system.

3 (c) When planning the construction of a middle or junior high  
4 school which has been approved by the authority and which meets the  
5 required authority efficiencies, the authority shall provide  
6 funding for comprehensive career technical education facilities to  
7 be located, when feasible, on the same site as the middle or junior  
8 high school.

9 (d) Upon application of a county board to construct  
10 comprehensive career technical education facilities at an existing  
11 middle or junior high school, the authority will provide technical  
12 assistance to the county in developing a plan for construction of  
13 the comprehensive career technical education facility. Upon  
14 development of the plan, the authority shall consider funding based  
15 on the following criteria:

16 (1) The ability of the county board to provide local funds for  
17 the construction of new comprehensive career technical education  
18 facilities;

19 (2) The size of the existing middle and junior high schools;

20 (3) The age and physical condition of the existing career  
21 technical education facilities; and

22 (4) Such other criteria as the authority shall consider  
23 appropriate.

NOTE: The purpose of this bill is to require the authority, when planning the construction of a middle or junior high school,



to provide funding for comprehensive career technical education facilities to be located, when feasible, on the same site as the middle or junior high school; require the authority, upon application of a county board to construct comprehensive career technical education facilities at an existing middle or junior high school, to provide technical assistance to the county in developing a plan for construction of the comprehensive career technical education facility; require, upon development of the plan, the authority to consider funding based on certain criteria; and allow, upon application by a county board of education, the School Building Authority to allocate and expend certain moneys for school major improvement projects for vocational programs at comprehensive middle schools.

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

§18-9D-19a is new; therefore, it has been completely underscored.