

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 3089**

BY DELEGATES ESPINOSA, STATLER, HIGGINBOTHAM,  
UPSON, COOPER, ROWAN, HARSHBARGER AND DEAN

[Introduced March 14, 2017; Referred  
to the Committee on Education.]

1 A BILL to amend the Code of West Virginia, 1931, as amended; by adding thereto a new section,  
 2 designated §18-2A-10, relating to the adoption of instructional resources for use in the  
 3 public schools; providing for transition to new provisions for instructional resources  
 4 adoption; defining instructional resources; requiring state board policy on required criteria  
 5 included in instructional resources and requiring resources adopted to substantially cover;  
 6 requiring pricing statement to be filed with state superintendent by person, firm or  
 7 corporation desiring to sell instructional resources; prohibiting adoption or use unless of  
 8 person firm or corporation not complying; disqualification of person, firm or corporation for  
 9 failure to honor terms of filing; supplementary resources exempted; provisions for  
 10 furnishing necessary instructional resources to students; requiring county board policy on  
 11 instructional resources adoption and specifying minim provisions; and prohibiting board of  
 12 education member or employee from acting as sales agents for person, firm or corporation  
 13 filing statement with superintendent.

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

That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new section, designated §18-2A-10, to read as follows:

**ARTICLE 2A. ADOPTION OF TEXTBOOKS, INSTRUCTIONAL MATERIALS AND LEARNING TECHNOLOGIES RESOURCES.**

**§18-2A-10. Transition to system of instructional resources adoption at county board level.**

1 (a) The purpose of this section is to provide for a transition to the county board level of the  
 2 process for review and adoption of instructional resources required to be used in the schools  
 3 under the jurisdiction of the county board. Notwithstanding any other provision of this article to  
 4 the contrary, for instructional resources adopted by a county board for use in the school year  
 5 beginning July 1, 2018, and successive school years, the provisions of sections one, two, three,  
 6 four, five, six, seven and eight of this article are null and void to the extent that they are in conflict

7 with the provisions of this section: *Provided*, That nothing in this limits or prevents a county board  
8 from adopting instructional resources approved and included on the state multiple list under those  
9 provisions for the duration of the adoption cycle if they choose to do so.

10 (b) As used in this section, "instructional resources" means print materials, electronic  
11 resources and systems, or combinations of such instructional resources which convey information  
12 to a student that substantially covers the required content and skills approved by the state board  
13 for subjects taught in the public schools of the state.

14 (c) Instructional resources adopted by a county board shall substantially cover the required  
15 content and skills for the subject as approved by the state board. The state board shall establish  
16 a policy setting forth the criteria required to be included in instructional resources adopted by  
17 county boards.

18 (d) Any person, firm or corporation desiring to offer instructional resources for use by  
19 students in the public schools of West Virginia shall, before the instructional resources may be  
20 adopted and purchased by any county board, file with the state superintendent, on or before  
21 January 1 of each year, a statement that the list wholesale price to county boards in West Virginia  
22 will be no more than the lowest list wholesale price available to school districts in any other state.  
23 In addition, the statement shall include all of the following additional conditions:

24 (1) For textbooks published before August 18, 2006, the wholesale price of an electronic  
25 file that contains the text of the textbook in rich text format, or another electronic format approved  
26 by the superintendent of public instruction, for translating the text of the textbook into braille;

27 (2) For textbooks published on or after August 18, 2006, the wholesale price of an  
28 electronic file that contains the text of the textbook, and of all instructional materials the publisher  
29 offers with the textbook, in the National Instructional Materials Accessibility Standard (NIMAS)  
30 code for translating the text of the entire textbook into NIMAS-approved formats, including braille,  
31 audio, digital text, or large print; and

32 (3) The list wholesale price filed for any specified number of electronic files described in

33 subdivisions (1) and (2) of this section for the textbook and instructional materials the publisher  
34 offers with the textbook does not exceed the list wholesale price for the same number of the  
35 printed version of the textbook and materials.

36 (e) A county board may not adopt or cause to be used in the public schools any  
37 instructional resource unless the person, firm or corporation offering the instructional resource for  
38 adoption or use has complied with this section, except for the adoption of instructional resources  
39 approved and included on the state multiple list as provided in subsection (a) of this section.

40 (f) If a person, firm or corporation files a statement under subsection (d) of this section and  
41 fails or refuses to furnish the instructional resources to any county board in accordance with the  
42 terms provided in the statement, the board at once shall notify the state superintendent of the  
43 failure or refusal. If the state superintendent finds the failure or refusal to be true, the state  
44 superintendent shall disqualify the person, firm or corporation and notify each county board that  
45 its instructional resources may not thereafter be adopted and purchased by any county board until  
46 the person, firm or corporation is requalified.

47 (g) This section does not apply to the purchase of supplementary instructional resources,  
48 including, but not limited to, reading books, library books, reference books, or any other books,  
49 that are not required and adopted by the county board. These supplementary instructional  
50 resources shall be ordered, received, examined, and paid for in the same manner and by the  
51 same persons as other supplies and equipment.

52 (h) Each county board shall furnish, free of charge, the necessary instructional resources  
53 to the students attending the public schools in that county. A county board that chooses to furnish  
54 electronic instructional resources to its students shall provide reasonable access to the electronic  
55 resources and necessary computer equipment to students required to complete homework  
56 assignments that require using the resources and equipment and to teachers providing these  
57 homework assignments. All instructional resources furnished as provided in this section shall be  
58 the property of the county board and loaned to students on terms as each board prescribes.

- 59           (i) Every county board shall adopt a policy regarding the adoption of instructional  
60 resources which shall include, at a minimum, the following:
- 61           (1) The process for reviewing instructional resources;  
62           (2) The composition, duties and responsibilities of the county's instructional resource  
63 review committee;
- 64           (3) The process for recommending instructional resources that are proposed for adoption;  
65 and
- 66           (4) At any regular meeting, the county board shall determine by a majority vote of all  
67 members elected which instructional resources shall be required in the schools under its control.
- 68           (j) A board of education member or employee may not act as sales agent, either directly  
69 or indirectly, for any person, firm, or corporation that files an instructional resources statement  
70 with the state superintendent.

NOTE: The purpose of this bill is to provide a transition to the county board of education level of the process for review and adoption of instructional resources required to be used in the schools under the jurisdiction of the county board.

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