

H. B. 2632

(By Delegates Westfall, Pasdon, Hamrick, Ambler, Cooper, Upson,
Statler, Kurcaba, Duke, Rohrbach and Espinosa)

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

**FISCAL
NOTE**

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in support of public schools; exempting procurement of these items from division of purchasing requirements; removing outdated language and updating name of state technology plan; requiring the State Board of Education to define "equitable distribution;" requiring certain technology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.

1 **ARTICLE 3. PURCHASING DIVISION.**

2 **§5A-3-1. Division created; purpose; director; applicability of article; continuation.**

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

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

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

8 (3) To permit the continued development of procurement policies and practices;

9 (4) To make as consistent as possible the procurement rules and practices among the various
10 spending units;

11 (5) To provide for increased public confidence in the procedures followed in public
12 procurement;

13 (6) To ensure the fair and equitable treatment of all persons who deal with the procurement
14 system of this state;

15 (7) To provide increased economy in procurement activities and to maximize to the fullest
16 extent practicable the purchasing value of public funds;

17 (8) To foster effective broad-based competition within the free enterprise system;

18 (9) To provide safeguards for the maintenance of a procurement system of quality and
19 integrity; and

20 (10) To obtain in a cost-effective and responsive manner the commodities and services
21 required by spending units in order for those spending units to better serve this state's businesses and
22 residents.

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

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

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

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

8 (d) The provisions of this article do not apply to the judicial branch, the legislative branch,
9 to purchases of stock made by the Alcohol Beverage Control Commissioner and to purchases of
10 textbooks, for instructional materials, digital content resources, instructional technology, hardware,
11 software, telecommunications and technical services by the State Board of Education for use in and
12 in support of the public schools.

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

15 **CHAPTER 18. EDUCATION.**

16 **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

17 **§18-2E-7. Providing for ~~twenty-first century~~ instruction and learning in all public schools.**

18 (a) The Legislature finds that:

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

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

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

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

9 (5) To promote ~~twenty-first century~~ learning, teachers must be competent in ~~twenty-first~~
10 ~~century~~ content and learning skills and must be equipped to fully integrate technology to transform
11 instructional practice and to support ~~twenty-first century~~ skills acquisition;

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

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

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

19 (b) The state board shall ensure that the resources to be used to provide technology services
20 to students in grades prekindergarten through twelve are included in a West Virginia ~~21st Century~~
21 Strategic Technology Learning Plan to be developed by the Department of Education as an integral
22 component of the county electronic strategic improvement plan required in section five of this

1 article. The provision of technologies and services to students and teachers shall be based on a
2 county technology plan developed by a team that includes school building-level professional
3 educators and is aligned with the goals and objectives of the West Virginia 21st Century Strategic
4 Technology Learning Plan. This plan shall be an integral component of the county electronic
5 strategic improvement plan as required in section five of this article. Funds shall be allocated
6 equitably to county school systems following peer review of the plans that includes providing
7 necessary technical assistance prior to submission and allows timely review and approval by the
8 West Virginia Department of Education. ~~Technology tools, including hardware, software, network~~
9 ~~cabling, network electronics and related professional development, shall be purchased pursuant to~~
10 ~~the provisions of article three, chapter five-a of this code in the amount equal to anticipated revenues~~
11 ~~being appropriated and based on the approved county plans. County allocations that support this~~
12 ~~legislation~~ Equitable allocation shall be defined by the state board and may include per school-site
13 equity for technologies requiring a site license or other per school application. Technology tools
14 purchased from appropriations for this section shall adhere to state contract prices: *Provided*, That
15 contingent upon approval of the county technology plan, counties that identify, within that plan,
16 specific software or peripheral equipment not listed on the state contract, but necessary to support
17 implementation, ~~of twenty-first century skills~~, may request the West Virginia Department of
18 Education to secure state purchasing prices for those identified items. Total expenditure to purchase
19 these additional items may not exceed ten percent of the annual county allocation. To the extent
20 practicable, the technology shall be used:

21 (1) To maximize student access to learning tools and resources at all times including during
22 regular school hours, before and after school or class, in the evenings, on weekends and holidays and

1 for public education, noninstructional days and during vacations; and

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

4 (c) The implementation of this section should provide a technology infrastructure capable
5 of supporting multiple technology-based learning strategies designed to enable students to achieve
6 at higher academic levels. The technology infrastructure should facilitate student development by
7 addressing the following areas:

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

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

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

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

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

21 (6) Ability to use digital and emerging technologies to manage information, communicate
22 effectively, think critically, solve problems, work productively as an individual and collaboratively

1 as part of a team and demonstrate personal accountability and other self-directional skills;

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

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

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

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

13 (d) Developed with input from appropriate stakeholder groups, the West Virginia ~~21st~~
14 ~~Century~~ Strategic Technology Learning Plan shall be an integral component of the electronic
15 strategic county improvement plan as required in section five of this article. The West Virginia ~~21st~~
16 ~~Century~~ Strategic Technology Learning Plan shall be comprehensive and shall address, but not
17 necessarily be limited to, the following provisions:

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

22 (2) Providing students and staff with equitable access to a technology infrastructure that

- 1 supports the acquisition of ~~twenty-first century~~ skills in the use of technology, including the ability
2 to access information, solve problems, communicate clearly, make informed decisions, acquire new
3 knowledge, construct products, reports and systems and access online assessment systems;
- 4 (3) Inclusion of various technologies that enable and enhance the attainment of ~~twenty-first~~
5 ~~century~~ the skills outcomes for all students;
- 6 (4) Collaboration with various partners, including parents, community organization, higher
7 education, schools of education in colleges and universities, employers and content providers;
- 8 (5) Seeking of applicable federal government funds, philanthropic funds, other partnership
9 funds or any combination of those types of funds to augment state appropriations and encouraging
10 the pursuit of funding through grants, gifts, donations or any other sources for uses related to
11 education technology;
- 12 (6) Sufficient bandwidth to support teaching and learning and to provide satisfactorily for
13 instructional management needs;
- 14 (7) Protection of the integrity and security of the network, as well as student and
15 administrative workstations;
- 16 (8) Flexibility to adjust the plan based on developing technology, federal and state
17 requirements and changing local school and county needs;
- 18 (9) Incorporation of findings based upon validation from research-based evaluation findings
19 from previous West Virginia-based evaluation projects;
- 20 (10) Continuing study of emerging technologies for application in a ~~twenty-first century~~
21 learning environment and inclusion in the technology plan, as appropriate;
- 22 (11) An evaluation component to determine the effectiveness of the program and make

1 recommendations for ongoing implementation;

2 (12) A program of embedded, sustained professional development for teachers that is
3 strategically developed to support a ~~twenty-first-century~~ thorough and efficient education for all
4 students and that aligns with state standards for technology, integrates ~~twenty-first-century~~
5 technology skills into educational practice and supports the implementation of ~~twenty-first-century~~
6 software, technology and assessment resources in the classroom;

7 (13) Providing for uniformity in technological hardware and software standards and
8 procedures;

9 (14) The strategy for ensuring that the capabilities and capacities of the technology
10 infrastructure is adequate for acceptable performance of the technology being implemented in the
11 public schools;

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

16 (16) Providing for an effective model for the distance delivery, virtual delivery or both types
17 of delivery of instruction in subjects where there exists low student enrollment or a shortage of
18 certified teachers or where the delivery method substantially improves the quality of an instructional
19 program such as the West Virginia Virtual School;

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

22 (18) Providing a strategy to provide ongoing support and assistance to teachers in integrating

1 technology into ~~twenty-first century~~ instruction such as with technology integration specialists and
2 technology system specialists;

3 (19) A method of allowing public education to take advantage of appropriate bulk purchasing
4 abilities and to purchase from competitively bid contracts initiated through the southern regional
5 education board educational technology cooperative and the America TelEdCommunications
6 Alliance;

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

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

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

16 **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

17 **§18-9A-10. Foundation allowance to improve instructional programs.**

18 (a) The total allowance to improve instructional programs shall be the sum of the following:

19 (1) For instructional improvement, in accordance with county and school electronic strategic
20 improvement plans required by section five, article two-e of this chapter, ~~an amount equal to fifteen~~
21 ~~percent of the increase in the local share amount for the next school year above any required~~
22 ~~allocation pursuant to section six-b of this article shall be added to the amount of the appropriation~~

1 ~~for this purpose for the immediately preceding school year: *Provided*, That effective July 1, 2014,~~
2 an amount equal to ten percent of the increase in the local share amount for the next school year
3 above any required allocation pursuant to section six-b of this article shall be added to the amount
4 of the appropriation for this purpose for the immediately preceding school year. The sum of these
5 amounts shall be distributed to the counties as follows:

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

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

10 Moneys allocated by provision of this subdivision shall be used to improve instructional
11 programs according to the county and school strategic improvement plans required by section five,
12 article two-e of this chapter and approved by the state board: *Provided*, That notwithstanding any
13 other provision of this code to the contrary, moneys allocated by provision of this section also may
14 be used in the implementation and maintenance of the uniform integrated regional computer
15 information system.

16 Up to twenty-five percent of this allocation may be used to employ professional educators
17 and service personnel in counties after all applicable provisions of sections four and five of this
18 article have been fully utilized.

19 Prior to the use of any funds from this subdivision for personnel costs, the county board must
20 receive authorization from the state superintendent. The state superintendent shall require the county
21 board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in
22 staffing; (3) sharing of services with adjoining counties and the regional educational service agency

1 for that county in the use of the total local district board budget; and (4) employment of technology
2 integration specialists to meet the needs for implementation of the West Virginia 21st Century
3 Strategic Technology Learning Plan. County boards shall make application for the use of funds for
4 personnel for the next fiscal year by May 1 of each year. On or before June 1, the state
5 superintendent shall review all applications and notify applying county boards of the approval or
6 disapproval of the use of funds for personnel during the fiscal year appropriate. The state
7 superintendent shall require the county board to demonstrate the need for an allocation for personnel
8 based upon the county's inability to meet the requirements of state law or state board policy.

9 The provisions relating to the use of any funds from this subdivision for personnel costs are
10 subject to the following: (1) The funds available for personnel under this subsection may not be used
11 to increase the total number of professional noninstructional personnel in the central office beyond
12 four; and (2) For the school year beginning July 1, 2013, and thereafter, any funds available to a
13 county for use for personnel under this subsection above the amount available for the 2012-2013
14 school year, only may be used for technology systems specialists until the state superintendent
15 determines that the county has sufficient technology systems specialists to serve the needs of the
16 county.

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

19 (2) For the purposes of improving instructional technology, ~~an amount equal to fifteen~~
20 ~~percent of the increase in the local share amount for the next school year above any required~~
21 ~~allocation pursuant to section six-b of this article shall be added to the amount of the appropriation~~
22 ~~for this purpose for the immediately preceding school year. *Provided*, That effective July 1, 2014,~~

1 an amount equal to twenty percent of the increase in the local share amount for the next school year
2 above any required allocation pursuant to section six-b of this article shall be added to the amount
3 of the appropriation for this purpose for the immediately preceding school year. The sum of these
4 amounts shall be allocated to the counties as provided in section seven, article two-c of this chapter
5 to meet the objectives of the West Virginia 21st Century Strategic Technology Learning Plan:
6 *Provided, That effective July 1, 2014, the sum* of these amounts shall be distributed to the counties
7 as follows:

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

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

12 Effective July 1, 2014, moneys allocated by provision of this subdivision shall be used to
13 improve instructional technology programs according to the county and school strategic
14 improvement plans; plus

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

19 (4) An amount not less than the amount required to meet debt service requirements on any
20 revenue bonds issued prior to January 1, 1994, and the debt service requirements on any revenue
21 bonds issued for the purpose of refunding revenue bonds issued prior to January 1, 1994, shall be
22 paid into the School Building Capital Improvements Fund created by section six, article nine-d of

1 this chapter and shall be used solely for the purposes of that article. The School Building Capital
2 Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds
3 or revenue refunding bonds for which moneys contained within the School Building Debt Service
4 Fund have been pledged for repayment pursuant to that section.

5 (b) When the school improvement bonds secured by funds from the School Building Capital
6 Improvements Fund mature, the state Board of Education shall annually deposit an amount equal to
7 \$24,000,000 from the funds allocated in this section into the School Construction Fund created
8 pursuant to the provisions of section six, article nine-d of this chapter to continue funding school
9 facility construction and improvements.

10 (c) Any project funded by the School Building Authority shall be in accordance with a
11 comprehensive educational facility plan which must be approved by the state board and the School
12 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.