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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2015



# ENROLLED

## House Bill No. 2632

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



Passed March 11, 2015

In effect from passage.

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## H. B. 2632

(BY DELEGATE(S) WESTFALL, PASDON, HAMRICK,  
AMBLER, COOPER, UPSON, STATLER, KURCABA, DUKE,  
ROHRBACH AND ESPINOSA)

[Passed March 11, 2015;  
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AN ACT to amend and reenact §5A-3-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-3-3 of said code; to amend and reenact §18-2E-7 of said code; and to amend and reenact §18-9A-10 of said code, all relating to purchasing guidelines; exempting the West Virginia State Police Forensics Laboratory and the West Virginia Office of Laboratory Services from state purchasing guidelines; exempting 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in support of public schools; exempting procurement of these items from division of purchasing requirements; removing outdated language and updating name of state technology plan; requiring the State Board of Education to define “equitable distribution”; requiring certain technology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 §5A-3-3 of said code 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 purchasing  
5 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 West Virginia State Police Forensics Laboratory, the  
39 West Virginia Office of Laboratory Services, the legislative  
40 branch, to purchases of stock made by the Alcohol Beverage  
41 Control Commissioner and to purchases of textbooks,

42 instructional materials, digital content resources, instructional  
43 technology, hardware, software, telecommunications and  
44 technical services by the State Board of Education for use in and  
45 in support of the public schools.

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

**§5A-3-3. Powers and duties of Director of Purchasing.**

1 The director, under the direction and supervision of the  
2 secretary, shall be the executive officer of the Purchasing  
3 Division and shall have the power and duty to:

4 (1) Direct the activities and employees of the Purchasing  
5 Division;

6 (2) Ensure that the purchase of or contract for commodities  
7 and services shall be based, whenever possible, on competitive  
8 bid;

9 (3) Purchase or contract for, in the name of the state, the  
10 commodities, services and printing required by the spending  
11 units of the state government;

12 (4) Apply and enforce standard specifications established in  
13 accordance with section five of this article as hereinafter  
14 provided;

15 (5) Transfer to or between spending units or sell  
16 commodities that are surplus, obsolete or unused as hereinafter  
17 provided;

18 (6) Have charge of central storerooms for the supply of  
19 spending units, as the director deems advisable;

20 (7) Establish and maintain a laboratory for the testing of  
21 commodities and make use of existing facilities in state  
22 institutions for that purpose as hereinafter provided, as the  
23 director deems advisable;

24 (8) Suspend the right and privilege of a vendor to bid on  
25 state purchases when the director has evidence that such vendor  
26 has violated any of the provisions of the purchasing law or the  
27 rules and regulations of the director;

28 (9) Examine the provisions and terms of every contract  
29 entered into for and on behalf of the State of West Virginia that  
30 impose any obligation upon the state to pay any sums of money  
31 for commodities or services and approve each such contract as  
32 to such provisions and terms; and the duty of examination and  
33 approval herein set forth does not supersede the responsibility  
34 and duty of the Attorney General to approve such contracts as to  
35 form: *Provided*, That the provisions of this subdivision do not  
36 apply in any respect whatever to construction or repair contracts  
37 entered into by the Division of Highways of the Department of  
38 Transportation: *Provided, however*, That the provisions of this  
39 subdivision do not apply in any respect whatever to contracts  
40 entered into by the University of West Virginia Board of  
41 Trustees or by the Board of Directors of the State College  
42 System, except to the extent that such boards request the  
43 facilities and services of the director under the provisions of this  
44 subdivision: *Provided further*, That the provisions of this  
45 subdivision do not apply to the West Virginia State Police  
46 Forensic Laboratory and the West Virginia Office of Laboratory  
47 Services;

48 (10) Assure that the specifications and descriptions in all  
49 solicitations are prepared so as to provide all potential  
50 suppliers-vendors who can meet the requirements of the state an  
51 opportunity to bid and to assure that the specifications and  
52 descriptions do not favor a particular brand or vendor. If the

53 director determines that any such specifications or descriptions  
54 as written favor a particular brand or vendor or if it is decided,  
55 either before or after the bids are opened, that a commodity or  
56 service having different specifications or quality or in different  
57 quantity can be bought, the director may rewrite the solicitation  
58 and the matter shall be rebid; and

59 (11) Issue a notice to cease and desist to a spending unit  
60 when the director has credible evidence that a spending unit has  
61 violated competitive bidding or other requirements established  
62 by this article and the rules promulgated hereunder. Failure to  
63 abide by such notice may result in penalties set forth in section  
64 seventeen of this article.

## **CHAPTER 18. EDUCATION.**

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

#### **§18-2E-7. Providing for instruction and learning in all public schools.**

1 (a) The Legislature finds that:

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

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

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

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

17 (5) To promote learning, teachers must be competent in  
18 content and learning skills and must be equipped to fully  
19 integrate technology to transform instructional practice and to  
20 support skills acquisition;

21 (6) For students to learn technology skills, students and  
22 teachers must have equitable access to high quality, technology  
23 tools and resources;

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

27 (8) Teachers must understand how to use technology to  
28 create classroom assessments for accurate, timely measurements  
29 of student proficiency in attainment of academic content.

30 (b) The state board shall ensure that the resources to be used  
31 to provide technology services to students in grades  
32 prekindergarten through twelve are included in a West Virginia  
33 Strategic Technology Learning Plan to be developed by the  
34 Department of Education as an integral component of the county  
35 electronic strategic improvement plan required in section five of  
36 this article. The provision of technologies and services to  
37 students and teachers shall be based on a county technology plan  
38 developed by a team that includes school building-level  
39 professional educators and is aligned with the goals and  
40 objectives of the West Virginia Strategic Technology Learning  
41 Plan. This plan shall be an integral component of the county  
42 electronic strategic improvement plan as required in section five  
43 of this article. Funds shall be allocated equitably to county

44 school systems following peer review of the plans that includes  
45 providing necessary technical assistance prior to submission and  
46 allows timely review and approval by the West Virginia  
47 Department of Education. Equitable allocation shall be defined  
48 by the state board and may include per school-site equity for  
49 technologies requiring a site license or other per school  
50 application. Technology tools purchased from appropriations for  
51 this section shall adhere to state contract prices: *Provided*, That  
52 contingent upon approval of the county technology plan,  
53 counties that identify, within that plan, specific software or  
54 peripheral equipment not listed on the state contract, but  
55 necessary to support implementation, may request the West  
56 Virginia Department of Education to secure state purchasing  
57 prices for those identified items. Total expenditure to purchase  
58 these additional items may not exceed ten percent of the annual  
59 county allocation. To the extent practicable, the technology shall  
60 be used:

61 (1) To maximize student access to learning tools and  
62 resources at all times including during regular school hours,  
63 before and after school or class, in the evenings, on weekends  
64 and holidays and for public education, noninstructional days and  
65 during vacations; and

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

69 (c) The implementation of this section should provide a  
70 technology infrastructure capable of supporting multiple  
71 technology-based learning strategies designed to enable students  
72 to achieve at higher academic levels. The technology  
73 infrastructure should facilitate student development by  
74 addressing the following areas:

75 (1) Mastery of rigorous core academic subjects in grades  
76 prekindergarten through eight by providing software, other  
77 technology resources or both aligned with state standards in  
78 reading, mathematics, writing, science, social studies and  
79 learning tools;

80 (2) Mastery of rigorous core academic subjects in grades  
81 nine through twelve by providing appropriate technology tools  
82 aligned with state standards for learning skills and technology  
83 tools;

84 (3) Attainment of skill outcomes for all students in the use  
85 of technology tools and learning skills;

86 (4) Proficiency in new, emerging content;

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

92 (6) Ability to use digital and emerging technologies to  
93 manage information, communicate effectively, think critically,  
94 solve problems, work productively as an individual and  
95 collaboratively as part of a team and demonstrate personal  
96 accountability and other self-directional skills;

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

101 (8) Providing greater access to advanced and other curricular  
102 offerings than could be provided efficiently through traditional  
103 on-site delivery formats, including increasing student access to

104 quality distance learning curricula and online distance education  
105 tools;

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

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

112 (d) Developed with input from appropriate stakeholder  
113 groups, the West Virginia Strategic Technology Learning Plan  
114 shall be an integral component of the electronic strategic county  
115 improvement plan as required in section five of this article. The  
116 West Virginia Strategic Technology Learning Plan shall be  
117 comprehensive and shall address, but not necessarily be limited  
118 to, the following provisions:

119 (1) Allocation of adequate resources to provide students with  
120 equitable access to technology tools, including instructional  
121 offerings and appropriate curriculum, assessment and technology  
122 integration resources aligned to both the content and rigor of  
123 state content standards as well as to learning skills and  
124 technology tools;

125 (2) Providing students and staff with equitable access to a  
126 technology infrastructure that supports the acquisition of skills  
127 in the use of technology, including the ability to access  
128 information, solve problems, communicate clearly, make  
129 informed decisions, acquire new knowledge, construct products,  
130 reports and systems and access online assessment systems;

131 (3) Inclusion of various technologies that enable and  
132 enhance the attainment of the skills outcomes for all students;

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

136 (5) Seeking of applicable federal government funds,  
137 philanthropic funds, other partnership funds or any combination  
138 of those types of funds to augment state appropriations and  
139 encouraging the pursuit of funding through grants, gifts,  
140 donations or any other sources for uses related to education  
141 technology;

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

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

146 (8) Flexibility to adjust the plan based on developing  
147 technology, federal and state requirements and changing local  
148 school and county needs;

149 (9) Incorporation of findings based upon validation from  
150 research-based evaluation findings from previous West  
151 Virginia-based evaluation projects;

152 (10) Continuing study of emerging technologies for  
153 application in a learning environment and inclusion in the  
154 technology plan, as appropriate;

155 (11) An evaluation component to determine the effectiveness  
156 of the program and make recommendations for ongoing  
157 implementation;

158 (12) A program of embedded, sustained professional  
159 development for teachers that is strategically developed to  
160 support a thorough and efficient education for all students and  
161 that aligns with state standards for technology, integrates

162 technology skills into educational practice and supports the  
163 implementation of software, technology and assessment  
164 resources in the classroom;

165 (13) Providing for uniformity in technological hardware and  
166 software standards and procedures;

167 (14) The strategy for ensuring that the capabilities and  
168 capacities of the technology infrastructure is adequate for  
169 acceptable performance of the technology being implemented in  
170 the public schools;

171 (15) Providing for a comprehensive, statewide uniform,  
172 integrated education management and information system for  
173 data collection and reporting to the Department of Education and  
174 the public;

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

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

183 (18) Providing a strategy to provide ongoing support and  
184 assistance to teachers in integrating technology into instruction  
185 such as with technology integration specialists and technology  
186 system specialists;

187 (19) A method of allowing public education to take  
188 advantage of appropriate bulk purchasing abilities and to  
189 purchase from competitively bid contracts initiated through the  
190 southern regional education board educational technology  
191 cooperative and the America TelEdCommunications Alliance;

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

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

199 (e) Any state code and budget references to the Basic  
200 Skills/Computer Education Program and the SUCCESS Initiative  
201 will be understood to refer to the statewide technology initiative  
202 referenced in this section, commonly referred to as the 21st  
203 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 ten percent of the increase in the local share amount for  
7 the next school year above any required allocation pursuant to  
8 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. The sum of these amounts shall be distributed to the  
11 counties as follows:

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

14 (B) Distribution to the counties of the remainder of these  
15 funds shall be made proportional to the average of each county's

16 average daily attendance for the preceding year and the county's  
17 second month net enrollment.

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

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

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

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

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

62 (2) For the purposes of improving instructional technology,  
63 an amount equal to twenty percent of the increase in the local  
64 share amount for the next school year above any required  
65 allocation pursuant to section six-b of this article shall be added  
66 to the amount of the appropriation for this purpose for the  
67 immediately preceding school year. The sum of these amounts  
68 shall be distributed to the counties as follows:

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

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

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

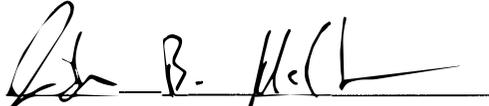
79       (3) One percent of the state average per pupil state aid  
80 multiplied by the number of students enrolled in dual credit,  
81 advanced placement and international baccalaureate courses, as  
82 defined by the state board, distributed to the counties  
83 proportionate to enrollment in these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

84       (4) An amount not less than the amount required to meet  
85 debt service requirements on any revenue bonds issued prior to  
86 January 1, 1994, and the debt service requirements on any  
87 revenue bonds issued for the purpose of refunding revenue bonds  
88 issued prior to January 1, 1994, shall be paid into the School  
89 Building Capital Improvements Fund created by section six,  
90 article nine-d of this chapter and shall be used solely for the  
91 purposes of that article. The School Building Capital  
92 Improvements Fund shall not be utilized to meet the debt  
93 services requirement on any revenue bonds or revenue refunding  
94 bonds for which moneys contained within the School Building  
95 Debt Service Fund have been pledged for repayment pursuant to  
96 that section.

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

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

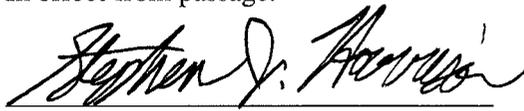
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

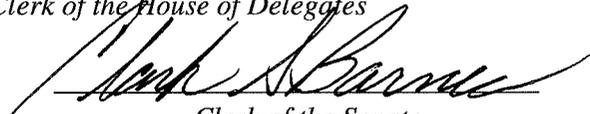
  
Chairman, House Committee

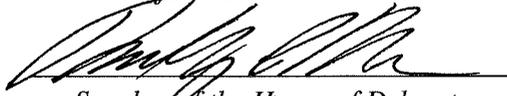
  
Chairman, Senate Committee

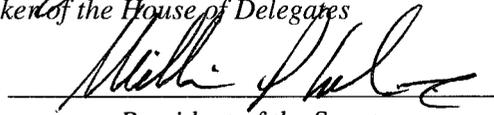
Originating in the House.

In effect from passage.

  
Clerk of the House of Delegates

  
Clerk of the Senate

  
Speaker of the House of Delegates

  
President of the Senate

The within ~~is approved~~ this the 25<sup>th</sup>  
day of March, 2015.

  
Governor

PRESENTED TO THE GOVERNOR

MAR 16 2015

Time 3:24 PM