

# WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 3089**

BY DELEGATES ESPINOSA, STATLER, HIGGINBOTHAM,

UPSON, COOPER, ROWAN, HARSHBARGER AND DEAN

[Passed March 9, 2018; in effect ninety days from passage.]

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2018 MAR 27 A 10:00

FILED

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1 AN ACT 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; providing for adoption cycle rule; requiring  
5 person, firm or corporation desiring to offer instructional resources for use by students to  
6 file statement containing and verifying certain information; requiring state board to provide  
7 list of vendors to counties; prohibiting county board from adopting or using instructional  
8 resources not in compliance; disqualification of person, firm or corporation for failure to  
9 honor terms of filing; supplementary resources exempted; requiring necessary  
10 instructional resources be furnished to students free of charge, including reasonable  
11 access to electronic resources; requiring county board policy on instructional resources  
12 adoption and specifying minimum provisions; and prohibiting board of education member  
13 or employee from acting as sales agents for person, firm or corporation filing statement  
14 with superintendent.

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

**ARTICLE 2A. ADOPTION OF INSTRUCTIONAL 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, 2019, and successive school years, the provisions of sections one, two, three,  
6 four, five, six, seven and eight of this article are repealed to the extent that they are in conflict with  
7 the provisions of this section: *Provided*, That nothing in this section limits or prevents a county  
8 board from adopting instructional resources approved and included on the state multiple list under  
9 those 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 covers no less than eighty percent the required content and skills approved by  
13 the state board for subjects taught in the public schools of the state.

14 (c) The state board shall set by rule an adoption cycle for instructional resources.

15 (d) Any person, firm or corporation desiring to offer instructional resources for use by  
16 students in the public schools of West Virginia shall, before the instructional resources may be  
17 adopted and purchased by any county board, file with the state superintendent, on or before  
18 January 1 of each year, a statement containing and verifying the following information:

19 (1) The instructional resources to be offered for purchase meet the non-negotiable  
20 evaluation criteria established by the state board;

21 (2) The instructional resources to be offered for purchase by the vendor covers no less  
22 than eighty percent of the required content and skills for the subject as approved by the state  
23 board;

24 (3) The list wholesale price to county boards in West Virginia for the specified instructional  
25 resource will be no more than the lowest list wholesale price available to school districts in any  
26 other state; and

27 (4) The list wholesale price filed for any specified number of electronic files for any print  
28 instructional resources the publisher offers with the print instructional resources does not exceed  
29 the list wholesale price for the same number of the printed version of the print instructional  
30 resources.

31 (e) The state board shall annually provide to all county boards of education a list of all  
32 vendors that have provided a statement in accordance with subsection (d) of this section.

33 (f) A county board may not adopt or cause to be used in the public schools any instructional  
34 resource unless the person, firm or corporation offering the instructional resource for adoption or

35 use has complied with this section, except for the adoption of instructional resources approved  
36 and included on the state multiple list as provided in subsection (a) of this section.

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

44 (h) This section does not apply to the purchase of supplementary instructional resources,  
45 including, but not limited to, reading books, library books, reference books, or any other books.  
46 These supplementary instructional resources shall be ordered, received, examined, and paid for  
47 in the same manner and by the same persons as other supplies and equipment.

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

55 (j) Every county board shall adopt a policy regarding the adoption of instructional  
56 resources which shall include, at a minimum, the following:

57 (1) The process for reviewing instructional resources to ensure the resources meet the  
58 non-negotiable requirements established by the state board and cover no less than eighty percent  
59 of the required content and skills for a subject as approved by the state board: *Provided*, That a

60 county board may rely on an instructional material review completed by the state department of  
61 education to fulfill this requirement;

62 (2) The composition, duties and responsibilities of the county's instructional resource  
63 review committee;

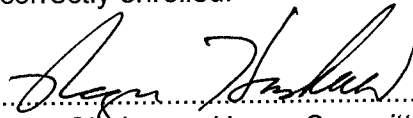
64 (3) The process for recommending instructional resources that are proposed for adoption;

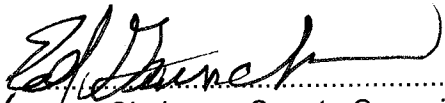
65 (4) At a properly noticed meeting, the county board shall determine by a majority vote of  
66 all members elected which instructional resources shall be required in the schools under its  
67 control; and

68 (5) The county board shall provide an annual report of the instructional resources adopted  
69 to the state board of education.

70 (k) A board of education member or employee may not act as sales agent, either directly  
71 or indirectly, for any person, firm, or corporation that files an instructional resources statement  
72 with the state superintendent.

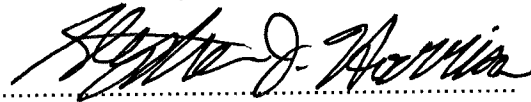
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

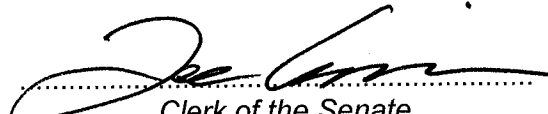
  
.....  
Chairman, House Committee

  
.....  
Member ~~Chairman~~, Senate Committee

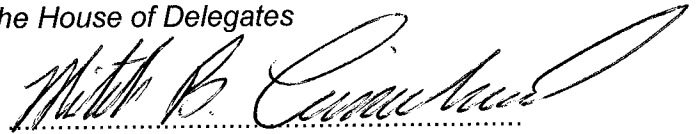
Originating in the House.

In effect ninety days from passage.

  
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Clerk of the House of Delegates

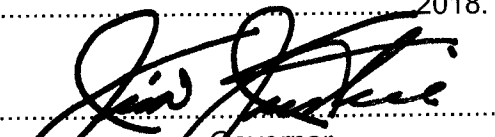
  
.....  
Clerk of the Senate

  
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Speaker of the House of Delegates

  
.....  
President of the Senate

FILED  
2018 MAR 27 A 10:01  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

The within is approved ..... this the 27<sup>th</sup> .....  
day of March ..... 2018.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2018

Time 1:45 pm