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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*Regular Session, 2005*

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**ENROLLED**

SENATE BILL NO. 248

(By Senator Plymale, et al )

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PASSED April 9, 2005

In Effect from Passage

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## **Senate Bill No. 248**

(BY SENATORS PLYMALE, EDGELL, DEMPSEY,  
MINARD AND JENKINS)

[Passed April 9, 2005; in effect from passage.]

AN ACT to amend and reenact §18-2J-1, §18-2J-2, §18-2J-3, §18-2J-4, §18-2J-5, §18-2J-6 and §18-2J-7 of the Code of West Virginia, 1931, as amended, all relating to public and higher education technology strategic plan; making findings and stating intent and purpose; providing for Advisory Council for Educational Technology; providing powers and duties; providing for goals and strategies for technology strategic plan; requiring approval of the plan by the Legislative Oversight Commission on Education Accountability; requiring allocation and expenditure of technology appropriations in accordance with the plan with certain exceptions; and report to Legislative Oversight Commission on Education Accountability.

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

That §18-2J-1, §18-2J-2, §18-2J-3, §18-2J-4, §18-2J-5, §18-2J-6 and §18-2J-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 2J. PUBLIC AND HIGHER EDUCATION UNIFIED EDUCATIONAL  
TECHNOLOGY STRATEGIC PLAN.**

**§18-2J-1. Findings; intent and purpose of article.**

1 (a) The Legislature finds that technology may be used in  
2 the public school system for many purposes including, but  
3 not limited to, the following:

4 (1) As an instructional tool that enables teachers to meet  
5 the individual instructional needs of students who differ  
6 in learning styles, learning rates and the motivation to  
7 learn;

8 (2) As an effective resource for providing corrective,  
9 remedial and enrichment activities to help students  
10 achieve proficiency at grade level or above in the basic  
11 skills of reading, composition and arithmetic that are  
12 essential for advancement to more rigorous curriculum  
13 and success in higher education, occupational and  
14 avocational pursuits;

15 (3) To ensure that all students have a basic level of  
16 computer literacy that will enable them to participate  
17 fully in a society in which computers are an ever more  
18 prevalent medium for social, economic and informational  
19 interaction;

20 (4) To provide greater access for students to advanced  
21 curricular offerings, virtual field trips, problemsolving,  
22 team-building exercises, reference information and source  
23 knowledge than could be provided efficiently through  
24 traditional on-site delivery formats;

25 (5) To help students obtain information on post-second-  
26 ary educational opportunities, financial aid and the skills  
27 and credentials required in various occupations that will  
28 help them better prepare for a successful transition  
29 following high school;

30 (6) To help students learn to think critically, apply  
31 academic knowledge in real-life situations, make decisions

32 and gain an understanding of the modern workplace  
33 environment through simulated workplace programs;

34 (7) As a resource for teachers by providing them with  
35 access to sample lesson plans, curriculum resources, on-  
36 line staff development, continuing education and college  
37 course-work; and

38 (8) As a tool for managing information, reporting on  
39 measures of accountability, analyzing student learning and  
40 helping to improve student, school and school system  
41 performance;

42 (b) The Legislature finds that technology may be used in  
43 the system of higher education for many purposes includ-  
44 ing, but not limited to, the following:

45 (1) For teaching, learning and research for all students  
46 across all disciplines and programs;

47 (2) By students, staff and faculty to discover, create,  
48 communicate and collaborate, as well as to enhance  
49 research and economic development activities;

50 (3) For digital age literacy, problemsolving, creativity,  
51 effective communication, collaboration and high produc-  
52 tivity skills essential for West Virginia citizens in a rapidly  
53 changing global economy;

54 (4) By libraries in higher education to offer reference  
55 services in a virtual environment online;

56 (5) By libraries in higher education to create and share  
57 cataloging records and that it is possible to create a  
58 seamless resource for sharing these resources between  
59 public and higher education; and

60 (6) To offer electronic document delivery services to  
61 distance education students and to a multitude of profes-  
62 sionals throughout the state.

63 (c) The Legislature further finds that all of the uses of  
64 technology in the public school and higher education

65 systems are not necessarily exclusive and, therefore, that  
66 areas exist wherein cooperation and collaboration between  
67 the public schools, the institutions of higher education and  
68 their respective governing bodies will enable them to  
69 combine and share resources, improve efficiency and  
70 better serve their students.

71 (d) The intent and purpose of this article is to establish  
72 a unified approach to the planning, procurement and  
73 implementation of technology and technology services in  
74 the public schools, the institutions of higher education and  
75 their respective governing bodies that will guide the  
76 administration and allocation of educational technology  
77 funds.

**§18-2J-2. Governor's Advisory Council for Educational Technology.**

1 (a) There is established, under the Governor's Office of  
2 Technology, the Governor's Advisory Council for Educa-  
3 tional Technology composed of fifteen members as follows:

4 (1) The Governor's educational technology advisor, ex  
5 officio, who shall chair the council;

6 (2) The Governor's Chief Technology Officer, ex officio;

7 (3) One public school technology coordinator;

8 (4) One public elementary, middle or junior high school  
9 teacher;

10 (5) One public secondary school teacher;

11 (6) A technology representative from Marshall Univer-  
12 sity;

13 (7) A technology representative from West Virginia  
14 University;

15 (8) One member of the Center for Professional Develop-  
16 ment Board;

17 (9) Three individuals from the private sector with  
18 expertise in education technology;

19 (10) One public secondary or higher education student;

20 (11) One representative of the Office of Business Devel-  
21 opment;

22 (12) One member of the Higher Education Policy Com-  
23 mission, or his or her designee; and

24 (13) One member of the State Board, or his or her  
25 designee.

26 (b) The Advisory Council shall meet as necessary, but  
27 shall hold no less than four meetings annually. Eight  
28 members constitute a quorum for conducting the business  
29 of the Advisory Council. All members of the Advisory  
30 Council are entitled to vote.

31 (c) The thirteen members of the Council who are not  
32 members ex officio shall be appointed by the Governor  
33 with the advice and consent of the Senate for terms of  
34 three years, except that of the original appointments, four  
35 members shall be appointed for one year; four members  
36 shall be appointed for two years; and five members shall  
37 be appointed for three years. No member may serve more  
38 than two consecutive full terms, nor may a member be  
39 appointed to a term which results in the member serving  
40 more than seven consecutive years.

41 (d) Members of the Advisory Council shall serve without  
42 compensation, but shall be reimbursed by the Governor for  
43 all reasonable and necessary expenses actually incurred in  
44 the performance of their official duties under this article  
45 upon presentation of an itemized sworn statement of their  
46 expenses, except that any member of the Advisory Council  
47 who is an employee of the state shall be reimbursed by the  
48 employing agency.

**§18-2J-3. Powers and duties of Governor’s Advisory Council for Educational Technology.**

1 In addition to any other powers and duties assigned to it  
2 by this article and in this code, the Governor’s Advisory  
3 Council for Educational Technology shall:

4 (1) Assess the broad spectrum of technology needs  
5 present within the state’s education systems as the basis  
6 for constructing a unified educational technology strategic  
7 plan that will guide the administration and allocation of  
8 educational technology funds;

9 (2) Assemble and integrate into the planning process the  
10 perspectives of students, teachers, faculty and administra-  
11 tors regarding educational technology programs;

12 (3) Assess, evaluate and publicize the effects of technol-  
13 ogy use by educators and students toward student learning  
14 and achievement;

15 (4) Explore new approaches to improve administration,  
16 accountability and student achievement within the  
17 education systems through technology application;

18 (5) Develop a unified educational technology strategic  
19 plan as required in section five of this article;

20 (6) Monitor the technology programs of the agencies and  
21 education systems affected by the educational technology  
22 strategic plan to assess its implementation and effective-  
23 ness; and

24 (7) Advise the Governor and the Legislature on any  
25 matters the Council considers important to inform the  
26 Governor and the Legislature on the state of education  
27 technology in the public schools and the institutions of  
28 higher education and on any matters requested by the  
29 Governor and the Legislature.

**§18-2J-4. Educational technology strategic plan goals and strategies.**

1 (a) The following are goals that the Governor's Advisory  
2 Council for Educational Technology should consider when  
3 constructing the educational technology strategic plan.  
4 Each goal shall apply to public education, higher educa-  
5 tion or both, as appropriate:

6 (1) Maintaining a reasonable balance in the resources  
7 allocated among the customary diverse uses of technology  
8 in the public school and higher education systems, while  
9 allowing flexibility to address unanticipated priority needs  
10 and unusual local circumstances and ensuring efficient  
11 and equitable use of technology at all levels from primary  
12 school through higher education, including vocational and  
13 adult education;

14 (2) Providing for uniformity in technological hardware  
15 and software standards and procedures to achieve  
16 interoperability between the public school and higher  
17 education systems to the extent that the uniformity is  
18 considered prudent for reducing acquisition cost, avoiding  
19 duplication, promoting expeditious repair and mainte-  
20 nance and facilitating user training, while allowing  
21 flexibility for local innovations and options when the  
22 objectives relating to uniformity are reasonably met;

23 (3) Preserving the integrity of governance, administra-  
24 tion, standards and accountability for technology within  
25 the public school and higher education systems, respec-  
26 tively, while encouraging collaborative service delivery  
27 and infrastructure investments with other entities that will  
28 reduce cost, avoid duplication or improve services, partic-  
29 ularly with respect to other entities such as the educa-  
30 tional broadcasting system, public libraries and other  
31 governmental agencies with compatible technology  
32 interests;

33 (4) Improving the long-term ability of the state to  
34 efficiently manage and direct the resources available for



35 technology in the public school and higher education  
36 systems to establish appropriate infrastructure that  
37 ensures, to the extent practicable, a sustainable, cost-  
38 effective and transparent migration to new technology  
39 platforms;

40 (5) Fostering closer communication between faculty,  
41 students and administrators and promoting the collabora-  
42 tion of schools, libraries, researchers, community mem-  
43 bers, state agencies, organizations, business and industry,  
44 post-secondary institutions and public virtual learning  
45 environments to meet the needs of all learners; and

46 (6) Creating and maintaining compatible and secure  
47 technology systems that enhance the efficient operation of  
48 the education systems.

49 (b) The following are strategies that the Governor's  
50 Advisory Council for Educational Technology must  
51 address in the educational technology strategic plan.  
52 Unless specifically identified otherwise, each strategy shall  
53 apply to public education, higher education or both, as  
54 appropriate:

55 (1) The strategy for using technology in the public school  
56 and higher education systems consistent with the findings,  
57 intent and purpose of this article and other uses considered  
58 necessary to improve student performance and progress.  
59 In addition, these uses may include:

60 (A) Providing for individualized instruction and accom-  
61 modating a variety of learning styles of students through  
62 computer-based technology, video and other technology-  
63 based instruction;

64 (B) Advancing learning through alternative approaches  
65 in curriculum to integrate education, research and tech-  
66 nology into lifelong learning strategies;

67 (C) Increasing student access to high quality blended  
68 distance learning curriculum using real time interactive  
69 and online distance education tools;

70 (D) Recognizing that information literacy is a fundamen-  
71 tal competency for lifelong learning and information  
72 literacy is incorporated into the curricula of higher  
73 education and the workplace; and

74 (E) Improving teaching and learning and the ability to  
75 increase student achievement by meeting individual  
76 student needs;

77 (2) The strategy for allocating the resources available  
78 and developing the capacity necessary to achieve the  
79 purposes addressed in the plan. The strategy shall:

80 (A) Allow for reasonable flexibility for county boards  
81 and regional education service agencies to receive assis-  
82 tance with the development and implementation of  
83 technological solutions designed to improve performance,  
84 enrich the curriculum and increase student access to high-  
85 level courses;

86 (B) Allow for reasonable flexibility for county boards,  
87 regional education service agencies and institutional  
88 boards of governors to implement technological solutions  
89 that address local priorities consistent with achieving the  
90 major objectives set forth in the education technology  
91 strategic plan; and

92 (C) Use the most cost-effective alternative allowable  
93 pursuant to section six of this article for expending funds  
94 for technology acquisition and implementation consistent  
95 with the goals of the plan;

96 (D) Encourage development by the private sector of  
97 technologies and applications appropriate for education;  
98 and

99 (E) Encourage the pursuit of funding through grants,  
100 gifts, donations or any other source for uses related to  
101 education technology;

102 (3) For public education, the strategy for using technol-  
103 ogy to increase and maintain equity in the array and

104 quality of educational offerings, expand the curriculum,  
105 deliver high-quality professional development and  
106 strengthen professional qualifications among the counties  
107 notwithstanding circumstances of geography, population  
108 density and proximity to traditional teacher preparation;

109 (4) For public education, the strategy for developing and  
110 using the capacity of the public school system to imple-  
111 ment, support and maintain technology in the public  
112 schools through the allocation of funds either directly or  
113 through contractual agreements with county boards and  
114 regional education service agencies for labor, materials  
115 and other costs associated with the installation, set-up,  
116 internet hook-up, wiring, repair and maintenance of  
117 technology in the public schools and state institutions of  
118 higher education;

119 (5) The strategy for ensuring that the capabilities and  
120 capacities of the technology infrastructure within the state  
121 and its various regions is adequate for acceptable perfor-  
122 mance of the technology being implemented in the public  
123 schools and the state institutions of higher education, for  
124 developing the necessary capabilities and capacities or for  
125 pursuing alternative solutions;

126 (6) The strategy for maximizing student access to  
127 learning tools and resources at all times including before  
128 and after school or class, in the evenings, on weekends and  
129 holidays, and for public education, noninstructional days  
130 and during vacations for student use for homework,  
131 remedial work, independent learning, career planning and  
132 adult basic education;

133 (7) The strategy for improving the efficiency and produc-  
134 tivity of administrators;

135 (8) The strategy for taking advantage of bulk purchasing  
136 abilities to the maximum extent feasible. This may  
137 include, but is not limited to:

138 (A) A method of recording all technology purchases  
139 across both the public education system and the higher  
140 education system;

141 (B) Combining the purchasing power of the public  
142 education system and the higher education system with the  
143 purchasing power of other state entities or all state  
144 entities; and

145 (C) A method of allowing public education and higher  
146 education to purchase from competitively bid contracts  
147 initiated through the southern regional education board  
148 educational technology cooperative and the American  
149 TelEdCommunications Alliance; and

150 (9) A strategy for allowing any other flexibility that is  
151 determined to be needed for the effective use of technology  
152 in public education and higher education.

153 (c) Nothing in this section may be construed to conflict  
154 with a state higher education institution's mission as set  
155 forth in its compact.

**§18-2J-5. Unified educational technology strategic plan; submission of legislative rule to Legislative Oversight Commission on Education Accountability.**

1 (a) The Governor's Advisory Council for Educational  
2 Technology shall develop a unified educational technology  
3 strategic plan and submit the plan to the Legislative  
4 Oversight Commission on Education Accountability for  
5 approval on or before the first day of October, two thousand  
6 sand five. On or before the first day of October in each  
7 year thereafter, the Council shall update the plan and  
8 submit the plan to the Commission for approval. The time  
9 line for updating and revising the rule and plan also shall  
10 be in accordance with the federal E-rate discount program.  
11 The plan is not effective until approved by the  
12 Commission.

13 (b) On or before the fifteenth day of June, two thousand  
14 five, and each year thereafter, each state institution of  
15 higher education shall submit a technology plan for the  
16 next fiscal year to the Higher Education Policy Commis-  
17 sion. The plan shall be in a form and contain the informa-  
18 tion determined by the Governor's Advisory Council for  
19 Educational Technology. On or before the thirtieth day of  
20 June, two thousand five, and each year thereafter, the  
21 Higher Education Policy Commission shall submit the  
22 plans to the Governor's Advisory Council for Educational  
23 Technology for its consideration in constructing the  
24 unified educational technology strategic plan.

**§18-2J-6. Allocation and expenditure of appropriations.**

1 (a) After the thirtieth day of June, two thousand five,  
2 notwithstanding any other provision of this code to the  
3 contrary, and specifically section seven, article two-e of  
4 this chapter, the State Board, regional education service  
5 agencies, the Higher Education Policy Commission and the  
6 state institutions of higher education shall allocate and  
7 expend state appropriations for technology in the public  
8 schools or the state institutions of higher education, as  
9 appropriate, in accordance with the unified educational  
10 technology strategic plan subject to the following:

11 (1) Expenditures from grants which can only be used for  
12 certain purposes are not required to be made in accor-  
13 dance with the plan;

14 (2) If the plan is not approved by the Legislative Over-  
15 sight Commission on Education Accountability, the plan  
16 has no effect;

17 (3) For public education, the expenditures shall be made  
18 directly, or through lease-purchase arrangements pursuant  
19 to the provisions of article three, chapter five-a of this  
20 code, or through contractual agreements or grants to  
21 county boards and regional education service agencies or  
22 any combination of the foregoing options as shall best

23 implement the strategic plan in the most cost effective  
24 manner;

25 (4) Nothing in this section nor in the prior enactment of  
26 this section restricts the expenditure of educational  
27 technology funds appropriated for the fiscal year, two  
28 thousand five, for the purposes for which they were  
29 allocated; and

30 (5) Except as provided in subdivision (2) of this subsec-  
31 tion, no more than fifty percent of the state appropriations  
32 for the fiscal year, two thousand six, to the Department of  
33 Education for educational technology in kindergarten  
34 through the twelfth grade may be expended or encum-  
35 bered except in accordance with the unified educational  
36 technology strategic plan.

37 (b) Nothing in this section requires any specific level of  
38 appropriation by the Legislature.

**§18-2J-7. Report to the Legislative Oversight Commission on  
Education Accountability.**

1 The State Board and the Higher Education Policy  
2 Commission shall report to the Legislative Oversight  
3 Commission on Education Accountability annually as soon  
4 as practical following the approval, annual update or  
5 revision of the unified educational technology strategic  
6 plan. The report shall include the proposed allocations of  
7 funds or planned expenditures for educational technology  
8 within the respective public school and higher education  
9 systems during the next fiscal year in accordance with the  
10 plan compared with the previous year's allocations and  
11 expenditures.

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

*Candace White*  
.....  
Chairman Senate Committee

*Steve Berry*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*David E. Wilson*  
.....  
Clerk of the Senate

*Bruce W. Bond*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*Robert S. Taylor*  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *3rd* .....  
Day of *May* ....., 2005.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 27 2005

Time



2:07 