

**WEST VIRGINIA LEGISLATURE**

REGULAR SESSION, 1991

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*Com. Sub. for Com. Sub. for*  
**SENATE BILL NO.** 523

(By Senator Lucht, et al)

—●—  
**PASSED** March 9, 1991

In Effect July 1, 1991 ~~Passage~~

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 523**

(BY SENATORS LUCHT, BRACKENRICH AND  
FELTON, *original sponsors*)

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[Passed March 9, 1991; to take effect July 1, 1991.]

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AN ACT to amend and reenact section one, article five, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section two-a, relating to educational broadcasting; providing definitions; and establishing a distance learning coordinating council.

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

That section one, article five, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section two-a, to read as follows:

**ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.**

**§10-5-1. Legislative findings; definitions.**

- 1 (a) The Legislature hereby finds and declares that it
- 2 is the duty of this state to provide the best educational

3 training possible for all its citizens and that the  
4 encouragement and use of noncommercial educational  
5 radio, television and related media operating and  
6 originating from educational broadcasting, closed  
7 circuit or related facilities located at a site or sites  
8 within this state serving all the citizens of this state on  
9 a regional basis or as part of a coordinated statewide  
10 plan is a proper, necessary and beneficial means of  
11 providing and extending enriched educational instruc-  
12 tion to all the citizens of this state at the preschool,  
13 elementary, secondary and higher education and adult  
14 levels.

15 (b) The following words used in this article and in  
16 any proceedings pursuant thereto shall, unless the  
17 context clearly indicates a different meaning, be  
18 construed as follows:

19 (1) "Distance learning" means educational courses,  
20 seminars, programs and teleconferences transmitted  
21 electronically and designed to instruct students who  
22 are remote from the instructor or other participants;  
23 such courses, seminars, programs and teleconferences  
24 may constitute all or a significant portion of a class  
25 offered for college or public school credit, or they may  
26 be provided for faculty development, continuing  
27 professional education, for training employees of  
28 governmental agencies, nonprofit organizations, busi-  
29 ness or industry;

30 (2) "EdNet" means those individuals identified as an  
31 enterprise of the university of West Virginia college of  
32 graduate studies and West Virginia state college on  
33 behalf of the state college and university systems who  
34 are delegated the responsibility for developing, operat-  
35 ing and maintaining facilities for the production and  
36 transmission of distance learning; and

37 (3) "SatNet" means those individuals identified as an  
38 enterprise of the state college and university systems  
39 who are delegated the responsibility for developing  
40 and providing distance learning.

**§10-5-2a. West Virginia distance learning coordinating  
council; creation; duties.**

1 (a) The Legislature finds that the educational bene-  
2 fits of making a broader range of courses available to

3 West Virginia students, and the economic benefits  
4 from continuing education and staff development for  
5 businesses, industry and the professions, are immea-  
6 surable and that distance learning technology offers an  
7 efficient means of delivering such education and  
8 personnel development courses. The Legislature fur-  
9 ther finds that distance learning technology requires a  
10 substantial financial investment and the acquisition  
11 and utilization of such technology should, therefore, be  
12 coordinated among the various affected agencies.

13 (b) To facilitate such coordination, there is hereby  
14 created a West Virginia distance learning coordinating  
15 council which shall be composed of one representative  
16 of each of the following: SatNet, EdNet, the educa-  
17 tional broadcasting authority, the West Virginia  
18 library commission, the state department of education,  
19 the higher education central office and the department  
20 of administration's division of information systems and  
21 communications. The representative of the depart-  
22 ment of administration's division of information  
23 systems and communications shall call the first meet-  
24 ing of the council and shall chair the meeting until a  
25 chair is elected by the council. The chair elected by  
26 the council shall serve a term of one year, at which  
27 time the council shall elect a new chair. A member of  
28 the council may not serve for more than two consec-  
29 utive terms as chair.

30 The council shall meet at least quarterly and shall  
31 develop long-range plans to integrate the instructional  
32 telecommunications system, to coordinate distance  
33 learning in West Virginia and to clarify the roles of the  
34 agencies involved in the state's distance learning  
35 enterprise. The council shall submit an annual report  
36 to the governor and the Legislature, which includes its  
37 recommendations for achieving the best use of limited  
38 resources in the development and operation of a  
39 distance learning technology system.

40 (c) There is hereby created in the state treasury, a  
41 special fund designated the "Distance Learning Fund"  
42 which shall be under the jurisdiction of the secretary  
43 of administration for use solely for the purposes of the

44 distance learning grant program as provided in this  
45 section.

46 Appropriate guidelines for participation by school  
47 districts, state institutions of higher education, public  
48 libraries and public television stations, in the grant  
49 program, shall be established by the distance learning  
50 coordinating council subject to approval by the legisla-  
51 tive oversight commission on education accountability.  
52 Such guidelines shall include application procedures  
53 and shall establish policies for awarding grants in the  
54 event that more grant applications are received than  
55 funds available to honor the applications in any fiscal  
56 year. In allocating funds to applicants, the council may  
57 give due consideration to revenues available from all  
58 other sources. The state board of education shall  
59 accredit courses offered through this program at the  
60 elementary and secondary education level. The higher  
61 education governing boards shall approve courses  
62 taught at the post-secondary level.

63 In any fiscal year moneys in the fund shall be used  
64 first to ensure that any and all school districts, state  
65 institutions of higher education, public libraries and  
66 public television stations seeking aid under this  
67 program shall receive telecommunications equipment  
68 necessary to participate in the satellite learning  
69 process; second, to provide the school districts, and  
70 state institutions of higher education with access to  
71 subjects at the advanced level or the remedial level or  
72 which are not taught in the schools of the district or  
73 the service area or campus; and third, to provide  
74 enrichment classes, continuing education and profes-  
75 sional development. However, the council may set  
76 aside a portion of the funds to be used to contract with  
77 state institutions of higher education, state institutions  
78 of public education and public television stations to  
79 develop instructional programs for grades kindergar-  
80 ten through twelve. Funds may also be used for  
81 undergraduate and graduate course work suitable for  
82 broadcast to the school districts, state institutions of  
83 higher education, as appropriate, for continuing  
84 education and professional development for business

85 and industry seminars, and to develop the capability to  
86 transmit programs cited in this section.

87 Participation by a local school district, a state  
88 institution of higher education, a public library or a  
89 public television station in the program established by  
90 this section shall be voluntary. No school district, state  
91 institution of higher education, public library or public  
92 television station receiving funds under this program  
93 shall use those funds for any purpose other than that  
94 for which they were intended. Any school district,  
95 state institution of higher education, public library or  
96 public television station shall be eligible to receive  
97 funds under this program regardless of its curriculum,  
98 local wealth or previous contractual arrangements to  
99 receive satellite broadcast instruction.

100 The secretary of administration on behalf of the  
101 state of West Virginia may contract with institutions of  
102 higher education and the state board of education for  
103 the development or operation, or both, of state  
104 employee training programs transmitted by telecom-  
105 munications technology.

106 Instructional programs developed under this section  
107 which are transmitted one-way through the airwaves  
108 or by cable television shall be available to all residents  
109 of this state without charge or fee to the extent  
110 permitted by the West Virginia constitution. "Without  
111 charge or fee" shall not require the providing of  
112 equipment to transmit or receive telecommunications  
113 instruction or the providing of commercial cable  
114 television service. If the instructional program  
115 involves two-way, interactive communication between  
116 the instructor and the participant, the district or  
117 institution operating the program may prescribe  
118 academic prerequisites and limit the number of  
119 persons who may enroll in the specific program and  
120 give preference to residents of the district or institu-  
121 tional attendance area who are age twenty-one or  
122 younger but shall not discriminate against any resi-  
123 dent on any other basis. A fee may be charged which  
124 will be paid directly by the individual participant, but  
125 the fee shall be equal for all participants. If a subscrip-

126 tion fee is charged by the originator of the program,  
127 the district or institution may pay the subscription fee  
128 for all participants from a grant under this section or  
129 from any other public or private fund legally autho-  
130 rized to be used for this purpose. Printed materials  
131 designed to facilitate or complement telecommunica-  
132 tions programs or electronic reproduction thereof may  
133 be made available for loan by the school district,  
134 institution of higher education through the public  
135 library system or the curriculum technology resource  
136 center, subject to the normal rules and regulations of  
137 the lending system and in such quantities as may be  
138 approved by the governing body of the district or  
139 institution.

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

*Somer Heck*  
.....  
Chairman Senate Committee

*Ernest C. Moore*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1991.

*Parrell Williams*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Kent Burdette*  
.....  
President of the Senate

*Bob CCA*  
.....  
Speaker House of Delegates

The within is approved this the *27<sup>th</sup>* day of *June*, 1991.

*Yaston Caperton*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/18/91

Time 3:00 pm