ENROLLED

SENATE BILL NO. 248

(By Senator Plymale, et al)

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.

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

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

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

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

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

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

(6) To help students learn to think critically, apply academic knowledge in real-life situations, make decisions...
and gain an understanding of the modern workplace
environment through simulated workplace programs;

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

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

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

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

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

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

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

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

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

(c) The Legislature further finds that all of the uses of
technology in the public school and higher education
systems are not necessarily exclusive and, therefore, that areas exist wherein cooperation and collaboration between the public schools, the institutions of higher education and their respective governing bodies will enable them to combine and share resources, improve efficiency and better serve their students.

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

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

(a) There is established, under the Governor’s Office of Technology, the Governor’s Advisory Council for Educational Technology composed of fifteen members as follows:

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

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

(3) One public school technology coordinator;

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

(5) One public secondary school teacher;

(6) A technology representative from Marshall University;

(7) A technology representative from West Virginia University;

(8) One member of the Center for Professional Development Board;
(9) Three individuals from the private sector with expertise in education technology;

(10) One public secondary or higher education student;

(11) One representative of the Office of Business Development;

(12) One member of the Higher Education Policy Commission, or his or her designee; and

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

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

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

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

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

2. (1) Assess the broad spectrum of technology needs present within the state's education systems as the basis for constructing a unified educational technology strategic plan that will guide the administration and allocation of educational technology funds;

3. (2) Assemble and integrate into the planning process the perspectives of students, teachers, faculty and administrators regarding educational technology programs;

4. (3) Assess, evaluate and publicize the effects of technology use by educators and students toward student learning and achievement;

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

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

7. (6) Monitor the technology programs of the agencies and education systems affected by the educational technology strategic plan to assess its implementation and effectiveness; and

8. (7) Advise the Governor and the Legislature on any matters the Council considers important to inform the Governor and the Legislature on the state of education technology in the public schools and the institutions of higher education and on any matters requested by the Governor and the Legislature.
§18-2J-4. Educational technology strategic plan goals and strategies.

(a) The following are goals that the Governor’s Advisory Council for Educational Technology should consider when constructing the educational technology strategic plan. Each goal shall apply to public education, higher education or both, as appropriate:

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

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

(3) Preserving the integrity of governance, administration, standards and accountability for technology within the public school and higher education systems, respectively, while encouraging collaborative service delivery and infrastructure investments with other entities that will reduce cost, avoid duplication or improve services, particularly with respect to other entities such as the educational broadcasting system, public libraries and other governmental agencies with compatible technology interests;

(4) Improving the long-term ability of the state to efficiently manage and direct the resources available for
technology in the public school and higher education systems to establish appropriate infrastructure that ensures, to the extent practicable, a sustainable, cost-effective and transparent migration to new technology platforms;

(5) Fostering closer communication between faculty, students and administrators and promoting the collaboration of schools, libraries, researchers, community members, state agencies, organizations, business and industry, post-secondary institutions and public virtual learning environments to meet the needs of all learners; and

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

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

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

(A) Providing for individualized instruction and accommodating a variety of learning styles of students through computer-based technology, video and other technology-based instruction;

(B) Advancing learning through alternative approaches in curriculum to integrate education, research and technology into lifelong learning strategies;

(C) Increasing student access to high quality blended distance learning curriculum using real time interactive and online distance education tools;
Recognizing that information literacy is a fundamental competency for lifelong learning and information literacy is incorporated into the curricula of higher education and the workplace; and

Improving teaching and learning and the ability to increase student achievement by meeting individual student needs;

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

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

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

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

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

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

(3) For public education, the strategy for using technology to increase and maintain equity in the array and
quality of educational offerings, expand the curriculum, deliver high-quality professional development and strengthen professional qualifications among the counties notwithstanding circumstances of geography, population density and proximity to traditional teacher preparation;

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

(5) The strategy for ensuring that the capabilities and capacities of the technology infrastructure within the state and its various regions is adequate for acceptable performance of the technology being implemented in the public schools and the state institutions of higher education, for developing the necessary capabilities and capacities or for pursuing alternative solutions;

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

(7) The strategy for improving the efficiency and productivity of administrators;

(8) The strategy for taking advantage of bulk purchasing abilities to the maximum extent feasible. This may include, but is not limited to:
(A) A method of recording all technology purchases across both the public education system and the higher education system;
(B) Combining the purchasing power of the public education system and the higher education system with the purchasing power of other state entities or all state entities; and
(C) A method of allowing public education and higher education to purchase from competitively bid contracts initiated through the southern regional education board educational technology cooperative and the American TelEdCommunications Alliance; and
(9) A strategy for allowing any other flexibility that is determined to be needed for the effective use of technology in public education and higher education.
(c) Nothing in this section may be construed to conflict with a state higher education institution’s mission as set forth in its compact.

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

(a) The Governor's Advisory Council for Educational Technology shall develop a unified educational technology strategic plan and submit the plan to the Legislative Oversight Commission on Education Accountability for approval on or before the first day of October, two thousand five. On or before the first day of October in each year thereafter, the Council shall update the plan and submit the plan to the Commission for approval. The time line for updating and revising the rule and plan also shall be in accordance with the federal E-rate discount program. The plan is not effective until approved by the Commission.
(b) On or before the fifteenth day of June, two thousand five, and each year thereafter, each state institution of higher education shall submit a technology plan for the next fiscal year to the Higher Education Policy Commission. The plan shall be in a form and contain the information determined by the Governor's Advisory Council for Educational Technology. On or before the thirtieth day of June, two thousand five, and each year thereafter, the Higher Education Policy Commission shall submit the plans to the Governor's Advisory Council for Educational Technology for its consideration in constructing the unified educational technology strategic plan.

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

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

(1) Expenditures from grants which can only be used for certain purposes are not required to be made in accordance with the plan;

(2) If the plan is not approved by the Legislative Oversight Commission on Education Accountability, the plan has no effect;

(3) For public education, the expenditures shall be made directly, or through lease-purchase arrangements pursuant to the provisions of article three, chapter five-a of this code, or through contractual agreements or grants to county boards and regional education service agencies or any combination of the foregoing options as shall best
implement the strategic plan in the most cost effective manner;

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

(5) Except as provided in subdivision (2) of this subsection, no more than fifty percent of the state appropriations for the fiscal year, two thousand six, to the Department of Education for educational technology in kindergarten through the twelfth grade may be expended or encumbered except in accordance with the unified educational technology strategic plan.

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

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

The State Board and the Higher Education Policy Commission shall report to the Legislative Oversight Commission on Education Accountability annually as soon as practical following the approval, annual update or revision of the unified educational technology strategic plan. The report shall include the proposed allocations of funds or planned expenditures for educational technology within the respective public school and higher education systems during the next fiscal year in accordance with the plan compared with the previous year's allocations and expenditures.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor