

HB 3340

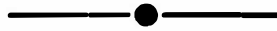
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2009 MAY -4 PM 3: 19

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



ENROLLED

House Bill No. 3340

(By Delegates M. Poling and Paxton)



Passed April 10, 2009

In Effect from Passage

ENROLLED

FILED

H. B. 3340

2009 MAY -4 PM 3: 19

OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY DELEGATES M. POLING AND PAXTON)

[Passed April 10, 2009; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1D-10, relating to entry into a data state compact among the Higher Education Policy Commission, Council for Community and Technical College Education and State Board of Education; authorizing disclosures of information among the parties; requiring that personal privacy laws be obeyed and security measures and procedures be developed; and setting forth requirements for data sharing arrangements with research organizations.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18B-1D-10, to read as follows:

ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.

§18B-1D-10. State data sharing compact; legislative intent; findings; definitions.

1 (a) The intent of the Legislature in enacting this section
2 is to direct the commission, council and State Board of
3 Education to enter into a state compact, consistent with the
4 provisions of section six of this article, on or before July 1,
5 2009, to develop and maintain a longitudinal education data
6 system and to share educational information.

7 (b) The Legislature makes the following findings:

8 (1) Sound data collection, reporting and analysis are
9 critical to building an education system capable of ensuring
10 that all West Virginia students are adequately prepared for
11 college and the global workforce. Elementary schools,
12 middle schools, secondary schools and higher education
13 institutions can improve instructional and educational
14 decision-making using data that are collected and made
15 available to them.

16 (2) State education policymaking benefits from
17 partnerships between state education agencies and entities
18 with expertise in education research. It is beneficial for West
19 Virginia to establish systems and processes that permit
20 qualified researchers to assist with state evaluation and
21 research functions in a manner that is consistent with privacy
22 protection laws.

23 (3) West Virginia is committed to establishing and
24 maintaining a longitudinal student unit record data system
25 that educators and policymakers can use to analyze and
26 assess student progress beginning with early learning
27 programs and continuing through post-secondary education
28 and into employment. The commission, council and State
29 Board of Education have designed, built and deployed some
30 of the fundamental components of a longitudinal data system
31 and have engaged in extensive efforts to link and use
32 available education data effectively. Now, it is necessary to

33 integrate and manage the various education data components
34 in a cooperative manner to establish a data-driven,
35 decision-making environment for this state's education
36 system.

37 (4) Students will achieve improved learning outcomes
38 because of the longitudinal data system established through
39 the state compact mandated by this section.

40 (6) State use and management of education data shall be
41 in accordance with all legal requirements protecting student
42 privacy and shall protect personal information from
43 intentional or accidental release to unauthorized persons and
44 from intentional or accidental use for unauthorized purposes.

45 (c) Definitions:

46 (1) "Longitudinal data system" means a student unit
47 record data system that links student records beginning with
48 early learning programs and continuing through post-
49 secondary education, entry into the workforce and beyond.
50 The system may consist of separate student unit record
51 systems integrated through agreement and data transfer
52 mechanisms.

53 (2) "Privacy protection laws" means the federal Family
54 Educational Rights and Privacy Act of 1974 (20 U.S.C.
55 1232g) and any other state or federal laws relating to the
56 confidentiality and protection of personally identifiable
57 information.

58 (3) "Research organization" means a governmental entity,
59 institution of higher education, public policy organization or
60 other person or entity conducting educational research that
61 meets the following conditions:

62 (i) Qualified to perform educational research and protect
63 the privacy of student data;

64 (ii) Seeks to perform research for a non-commercial
65 purpose authorized by privacy protection laws; and

66 (iii) Agrees to perform the research pursuant to a written
67 agreement meeting the requirements of privacy protection
68 laws and best research practices.

69 (d) The state data-sharing compact entered into by the
70 commission, council and State Board of Education shall
71 contain the following:

72 (1) A plan to establish and maintain a longitudinal data
73 system that links early learning, elementary, middle and
74 secondary school student unit records with higher education
75 institution student unit records;

76 (2) A plan to establish a data warehouse that integrates
77 data from multiple student unit record systems and supports
78 all of the uses and functions of the longitudinal data system;

79 (3) A list of areas for collaborative research and a
80 preliminary plan for conducting that research;

81 (4) A system for entering into data sharing arrangements
82 with each other and with research organizations consistent
83 with subsection (f) of this section; and

84 (5) A provision that allows another party to the compact
85 to review any draft report or study generated using that
86 party's data at least ten days before the report or study is
87 released publicly. During that ten day period, each party
88 shall be given the opportunity to submit comments regarding
89 the accuracy, conclusions and recommendations of the report
90 or study.

91 (e) To facilitate implementation of the requirements of
92 this section:

93 (1) The commission, council and State Board of
94 Education are authorized to disclose data to the longitudinal
95 data system and to each other consistent with the purposes of
96 this section;

97 (2) With the assistance of the State Board of Education,
98 the commission, council and state institutions of higher
99 education shall collect the State Board of Education's unique
100 identifier for all students who have attended public schools in
101 West Virginia to facilitate better matching of student unit
102 record data.

103 (3) The commission, council and State Board of
104 Education shall collect, use, maintain, disclose and share data
105 in accordance with personal privacy laws and shall develop
106 security measures and procedures that protect personal
107 information from intentional or accidental release to
108 unauthorized persons and from intentional or accidental use
109 for unauthorized purposes.

110 (f) A data sharing arrangement entered into with a
111 research organization pursuant to this section shall meet the
112 following criteria:

113 (1) Permitted by and undertaken in accordance with
114 privacy protection laws;

115 (2) Receives prior approval from the State Superintendent
116 of Schools or designee, the Chancellor for Higher Education
117 or designee, and the Chancellor for Community and
118 Technical College Education or designee, as appropriate, if
119 data from that entity are being utilized in the research;

120 (3) Prohibits the personal identification of any person by
121 individuals other than authorized representatives of the
122 research organization who have legitimate interests in the
123 information;

124 (4) Ensures the destruction or return of the data when no
125 longer needed for the authorized purposes under the data
126 sharing arrangement;

127 (5) Performed pursuant to a written agreement with the
128 research organization that does the following:

129 (A) Specifies the purpose, scope and duration of the data
130 sharing arrangement;

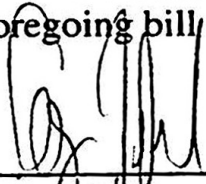
131 (B) Requires the recipient of the data to use personally
132 identifiable information from education records only to meet
133 the purpose or purposes of the data sharing arrangement
134 stated in the written agreement;

135 (C) Describes specific data access, use and security
136 restrictions that the recipient will undertake; and

137 (D) Contains such other terms and provisions as the
138 commission, council and State Board of Education, as
139 appropriate, consider necessary or appropriate.

140 (g) As a condition of participating in state-level financial
141 aid programs provided for in chapter eighteen-c of this code,
142 the commission may require non-public institutions of higher
143 education to provide data for the longitudinal data system and
144 data warehouse.

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



Chairman Senate Committee



Chairman House Committee

Originating in the House.

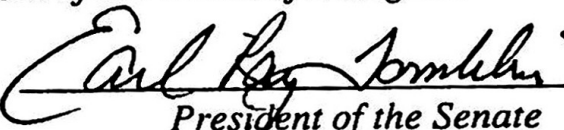
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 4th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 29 2009

Time 11:35 *am*