

Senate Bill No. 25

(By Senators Boley and Blair)

[Introduced January 14, 2015; referred to the Committee on Education; and then to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-1-5, relating to public school curricular standards and assessments; establishing a Legislative Common Core Study Committee to study issues relating to implementation of Common Core standards and assessments in West Virginia and report to the Governor and Legislature no later than six months after the final public hearing, or on or before the first day of the 2017 Regular Session of the Legislature, whichever comes first; requiring State Board of Education to undertake a study of fiscal costs associated with implementing Common Core standards and assessments and report to the Governor and Legislature on or before the first day of the 2017 Regular Session; placing two-year moratorium on implementation of Common Core assessments; prohibiting State Board of Education from sharing personally identifiable information of students or teachers except as provided; and providing definitions.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §18-1-5, to read as follows:

3 **ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR**
4 **EDUCATION.**

5 **§18-1-5. Public school curricular standards and assessments.**

6 (a) For purposes of this section:

7 (1) "Longitudinal data system" means the West Virginia Longitudinal Data System, as well
8 as any other data warehouse containing West Virginia student information, including regional,
9 interstate or federal data warehouse organizations under contract to or with a memorandum of
10 understanding with the West Virginia Department of Education or the State of West Virginia.

11 (2) "Educational agency or institution" means any public or private elementary or secondary
12 school or institution of higher education.

13 (3) "Common Core" means the Common Core state standards adopted by the West Virginia
14 State Board of Education on May 12, 2010, and also referred to as the West Virginia Next
15 Generation Standards.

16 (4) "Common Core assessments" means the Smarter Balanced Assessments or any other
17 student assessments intended to measure student achievement in the common core standards.

18 (b) Notwithstanding any other provision of law to the contrary, the State Board of Education
19 may not continue to implement the Common Core assessments currently scheduled for school year
20 2015-2016 as part of the Common Core State Standards Initiative, for two years to allow for the
21 following to occur:

22 (1) The appointment of a Legislative Common Core Study Committee which shall hold at

1 least one public hearing in each congressional district of the state at which public and expert
2 comment shall be taken on the Common Core standards and the associated assessments in the state's
3 public schools to determine the consequences of that implementation for academic achievement in
4 the state, the ramifications of implementation, including those concerning loss of state sovereignty
5 and control over any aspects of public education, and student data collection, storage and disclosure.
6 The committee shall be comprised of seven members of the West Virginia State Senate Education
7 Committee, who shall be appointed by the President of the Senate, and seven members of the West
8 Virginia House of Delegates Education Committee, who shall be appointed by the Speaker of the
9 House of Delegates. The Senate President and the House Speaker may not appoint more than four
10 members of the same political party from their respective seven appointees. The committee shall
11 make a final report of its findings, conclusions and recommendations to the Governor and
12 Legislature no later than six months after the final public hearing, or on or before the first day of the
13 2017 Regular Session of the Legislature, whichever comes first; and

14 (2) A fiscal analysis of the past, present, and future cost of implementation of the Common
15 Core standards, and associated assessments, including, but not limited to, curriculum, testing, data
16 collection and storage, additional personnel, training, materials, equipment, hardware, software and
17 computer upgrades, shall be presented to the Governor and the Legislature on or before the first day
18 of the 2017 Regular Session. The West Virginia Department of Education shall contract with an
19 independent entity with expertise in the development, implementation, and assessments to conduct
20 the fiscal analysis.

21 (c) The state board may not adopt any national standards in curricular areas other than
22 English Language Arts and Mathematics or any standards modeled on such national standards that

1 are substantially identical to those national standards, without completing the process outlined in
2 subsection (b) of this section.

3 (d) Pending the committee's report of findings, the state shall reserve the right to withdraw
4 from the Smarter Balance Assessment Consortium (SBAC) and may not implement the SBAC
5 assessments aligned to the Common Core standards, and shall instead, adopt and implement new
6 assessments that provide valid, reliable, and timely testing of student performance, focusing
7 primarily on academic content knowledge.

8 (e) The State Board of Education may not enter into or renew an agreement that cedes to an
9 outside entity control over curricular standards or assessments.

10 (f) The State of West Virginia affirms the parent or guardian as the final authority in all
11 matters of their student's education and prohibits the access, release, or sharing of personally
12 identifiable information, student level data, or directory information without prior written affirmative
13 consent of the parent or guardian.

14 (g) Notwithstanding any other provision of law to the contrary, and pending the committee's
15 report of findings to the Governor and the Legislature, the superintendent of schools, the state board,
16 the department, or any other state entity that deals with education may not do any of the following:

17 (1) Expend any funds on construction, enhancement, or expansion of any statewide
18 longitudinal data system designed to track students, or compile personally identifiable student
19 information, beyond what is necessary for administrative functions directly related to the student's
20 education, academic evaluation of programs and student progress, or for compliance as indicated in
21 subdivision (5) of this subsection.

22 (2) Collect any new, share, or allow access to any personally identifiable information,

1 directory information, or student level information of students or teachers with any entity outside the
2 state without prior written affirmative consent of parent or guardian or teacher, except as indicated
3 in subdivision (5) of this subsection.

4 (3) Share or allow access to any personally identifiable information, student level data, or
5 directory information of students or teachers with any entity that intends to use that information to
6 develop, market, distribute, or promote commercial products or services or that intends to transfer
7 the information to any other entity for use in developing, marketing, distributing or promoting
8 commercial products or service;

9 (4) Share or allow access to any personally identifiable information, student level data, or
10 directory information of students or teachers with any entity within the state, unless that entity is an
11 educational agency or an institution which the state expressly prohibits, in writing, the agency or
12 institution from the following:

13 (A) Transferring the information to any other entity department agency or person;

14 (B) Using the information to develop, market, distribute, or promote commercial products
15 or services, or to transfer information to any other entity for use in developing, marketing,
16 distributing or promoting commercial products or services;

17 (C) Using the transfer of information for economic or workforce development planning.

18 (5) Share or allow access to any personally identifiable information, student level data, or
19 directory information of students or teachers with the United States Department of Education unless
20 prior affirmative written consent of the parent or guardian is obtained and all of the following apply:

21 (A) The sharing of information is required as a condition of receiving a federal education
22 grant.

- 1 (B) The United States Department of Education agrees, in writing, to all of the following:
- 2 (i) To use the information only to evaluate the program or programs funded by the grant;
- 3 (ii) That the information will not be used for any research beyond that related to the
- 4 evaluation of the program or programs funded by the grant, unless the teacher and parent or guardian
- 5 of any student whose information will be used for the research affirmatively consents to that use in
- 6 writing;
- 7 (iii) That it will not share the information with any other governmental or private entity,
- 8 unless the teacher and parent or guardian of any student whose information will be shared
- 9 affirmatively consents to that sharing in writing;
- 10 (iv) In the event that a parent or guardian gives prior affirmative written consent the United
- 11 States Department of Education will inform the parent or guardian as to each data point that will be
- 12 shared, and the purpose for each.
- 13 (v) That it will destroy the information upon completion of the evaluation of the program or
- 14 program funded by the grant.

NOTE: The purpose of this bill is to affirm the parent or guardian as the final authority in all matters of a student's education and to require prior parental or guardian written affirmative consent for disclosure of any student information other than aggregate data that is not personally identifiable. The bill prohibits the State Board of Education from continuing to implement the Common Core assessments, and requires the formation of a Legislative Common Core Committee to conduct statewide hearings on the common core standards and associated assessments and to make a public report of findings to the Governor and the Legislature. The bill also prohibits the State Board of Education from expending funds for a statewide longitudinal data system designed to track students pending the committee's report of findings, and requires a fiscal analysis of common core and associated assessment implementation.

This section is new; therefore, strike-throughs and underscoring have been omitted.