

1 **Senate Bill No. 420**

2 (By Senators Plymale, Kessler (Mr. President), Beach, Cann,
3 Chafin, Cookman, Facemire, Edgell, Kirkendoll, Laird, McCabe,
4 Miller, Palumbo, Prezioso, Snyder, Stollings, Tucker, Williams,
5 Wells and Barnes

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7 [Introduced January 23, 2014; referred to the Committee on
8 Education; and then to the Committee on Finance.]

**FISCAL
NOTE**

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11 A BILL to amend and reenact §18B-1D-10 of the Code of West
12 Virginia, 1931, as amended, relating to adding WorkForce West
13 Virginia and the West Virginia Supreme Court of Appeals to the
14 existing entities that are to enter into a state data-sharing
15 compact; adding workforce data to the data that is to be
16 included in the P-20W Longitudinal Data System; revising
17 legislative findings; adding definitions; creating a governing
18 board of the P-20W Longitudinal Data System; setting forth
19 membership of the board; setting forth authority and duties of
20 the board; adding requirements for the State Board of
21 Education, the Higher Education Policy Commission, the Council
22 for Community and Technical College Education and WorkForce
23 West Virginia; requiring the data warehouse to be housed

1 within the West Virginia Network for Educational
2 Telecomputing; and adding components to the state data-sharing
3 compact.

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

5 That §18B-1D-10 of the Code of West Virginia, 1931, as
6 amended, be amended and reenacted to read as follows:

7 **ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.**

8 **§18B-1D-10. State data sharing compact; legislative intent;**
9 **findings; definitions.**

10 (a) The intent of the Legislature in enacting this section is
11 to direct the commission, council, ~~and~~ State Board of Education,
12 Workforce West Virginia, and the West Virginia Supreme Court of
13 Appeals to enter into a state compact, consistent with the
14 provisions of section six of this article, on or before ~~July 1,~~
15 ~~2009~~ July 1, 2014, to develop and maintain a P-20W Longitudinal
16 ~~education~~ Data System and to share ~~educational~~ education and
17 workforce information.

18 (b) The Legislature makes the following findings:

19 (1) Sound data collection, reporting and analysis are critical
20 to building an education system capable of ensuring that all West
21 Virginia students are adequately prepared for college and the
22 global workforce. Elementary schools, middle schools, secondary
23 schools and higher education institutions can improve instructional

1 and educational decision-making using data that are collected and
2 made available to them.

3 (2) State education policymaking benefits from partnerships
4 between state education agencies, Workforce West Virginia, the West
5 Virginia Supreme Court of Appeals and entities with expertise in
6 education and workforce research. It is beneficial for West
7 Virginia to establish systems and processes that permit qualified
8 researchers to assist with state evaluation and research functions
9 in a manner that is consistent with privacy protection laws.

10 (3) West Virginia is committed to establishing and maintaining
11 a longitudinal student and workforce unit record data system that
12 educators and policymakers can use to analyze and assess student
13 progress beginning with early learning programs and continuing
14 through post-secondary education and into employment. The
15 commission, council, ~~and~~ State Board of Education and Workforce
16 West Virginia have designed, built and deployed some of the
17 fundamental components of a longitudinal data system and have
18 engaged in extensive efforts to link and use available education
19 data effectively. Now, it is necessary to integrate and manage the
20 various education and workforce data components in a cooperative
21 manner to establish a data-driven, decision-making environment for
22 this state's education ~~system~~ and workforce systems.

23 (4) Students will achieve improved learning and workforce

1 outcomes because of the P-20W Longitudinal Data System established
2 through the state compact mandated by this section.

3 (5) Examples of research that can be conducted using education
4 and workforce data include:

5 (A) The impact of state and federal education programs;

6 (B) The performance of educator preparation programs;

7 (C) Best practices for classroom instruction, education
8 programs, curriculum; and

9 (D) Gauging success in preparing students for 21st century
10 workforce.

11 (6) State use and management of education and workforce data
12 shall be in accordance with all legal requirements protecting
13 student privacy and shall protect personal information from
14 intentional or accidental release to unauthorized persons and from
15 intentional or accidental use for unauthorized purposes.

16 (c) Definitions:

17 (1) "P-20W Longitudinal Data System" means a student and
18 workforce unit record data system that links student and workforce
19 records beginning with early learning programs and continuing
20 through post-secondary education, entry into the workforce and
21 beyond. The system may consist of separate student unit record
22 systems integrated through agreement and data transfer mechanisms.

23 (2) "Governing board" means the governing board of the P20-W

1 Longitudinal Data System.

2 ~~(2)~~ (3) "Privacy protection laws" means the federal Family
3 Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) and
4 any other state or federal laws relating to the confidentiality and
5 protection of personally identifiable information.

6 ~~(3)~~ (4) "Research organization" means a governmental entity,
7 institution of higher education, public policy organization or
8 other person or entity conducting educational research that meets
9 the following conditions:

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

12 (ii) Seeks to perform research for a noncommercial purpose
13 authorized by privacy protection laws; and

14 (iii) Agrees to perform the research pursuant to a written
15 agreement meeting the requirements of privacy protection laws and
16 best research practices.

17 (5) "Student data" means data relating to student performance,
18 and includes state and national assessments; course-taking and
19 completion; grade point average; remediation; retention; degree,
20 diploma or credential attainment; enrollment; attendance;
21 demographic data; and any other data necessary for furthering the
22 state's education and workforce systems and agreed to in the state
23 compact required by this section.

1 (6) "Workforce data" means data relating to employment status;
2 wage information; geographic location of employment; and employer
3 information.

4 (d) There is a governing board of the P-20W Longitudinal Data
5 System which shall include the following members:

6 (1) A designee agreed to by the Chancellor for Higher
7 Education and the Chancellor for Community and Technical College
8 Education;

9 (2) The State Superintendent of Schools or designee;

10 (3) A representative of the Office of Data Management and
11 Analysis within the Department of Education to be appointed by the
12 State Superintendent of Schools;

13 (4) The Executive Director of Workforce West Virginia or
14 designee;

15 (5) The Chief Justice of the West Virginia Supreme Court of
16 Appeals or designee; and

17 (6) The Director of the West Virginia Network for Educational
18 Computing or designee.

19 (e) The governing board shall elect a chair from among its
20 members.

21 (f) The governing board may:

22 (1) Propose rules for legislative approval in accordance with
23 article three-a, chapter twenty-nine-a of this code to implement

1 the provisions of this section;

2 (2) Create a working group responsible for the strategic
3 direction of the P-20W Longitudinal Data System; and

4 (3) Create a user forum responsible for carrying out the
5 day-to-day tasks identified by the working group.

6 (g) The governing board shall:

7 (1) Develop an implementation plan to phase in the
8 establishment and operation of the P-20W Longitudinal Data System
9 in accordance with the requirements of this section and the compact
10 entered into pursuant to this section by September 1, 2014;

11 (2) Provide general oversight and direction over the P-20W
12 Longitudinal Data System in accordance with this section and the
13 compact entered into pursuant to this section;

14 (3) Approve the annual budget for the P-20W Longitudinal Data
15 System;

16 (4) Create an inventory of the individual student and
17 workforce data to be maintained in the system and the data required
18 to be reported by state and federal education mandates;

19 (5) Propose rules for legislative approval in accordance with
20 article three-a, chapter twenty-nine-a of this code to comply with
21 privacy protection laws and the governing board's detailed data
22 security and safeguarding plan;

23 (6) Develop a detailed data security and safeguarding plan

1 that includes:

2 (i) Authorized access and authentication for authorized
3 access;

4 (ii) Privacy compliance standards;

5 (iii) Privacy and security audits;

6 (iv) Breach notification and procedures;

7 (v) Data retention and disposition policies;

8 (7) Oversee routine and ongoing compliance with privacy
9 protection laws and the governing board's detailed data security
10 and safeguarding plan;

11 (8) Ensure that all data reside within the State of West
12 Virginia including any data stored as backup;

13 (9) Ensure that any contracts entered into on or after the
14 effective date of the amendments to this section during the 2014
15 regular session of the Legislature that govern databases and that
16 are outsourced to private vendors include express provisions that
17 safeguard privacy and security and include penalties for
18 noncompliance;

19 (10) Designate a standard and compliance timeline for
20 electronic transcripts that includes the use of the State Board of
21 Education's unique identifier for all students who have attended
22 public schools in West Virginia to ensure the uniform and efficient
23 transfer of student data between local education agencies and

1 institutions of higher education;

2 (11) Review research requirements and set policies for the
3 approval of data requests from state and local agencies, the West
4 Virginia Legislature and the public;

5 (12) Report the following to the Governor and the Legislative
6 Oversight Commission on Education Accountability by November 15 of
7 each year:

8 (A) An update on the implementation of the P-20W Longitudinal
9 Data System;

10 (B) A list of all data sharing arrangements entered into with
11 research organizations pursuant to this section, and a summary of
12 each data sharing arrangement;

13 (C) A list of currently warehoused data that are determined to
14 be no longer necessary;

15 (D) Any proposed or planned expansion of data maintained in
16 the database; and

17 (E) Any other recommendations made by the governing board;

18 (h) The State Board of Education, the Higher Education Policy
19 Commission, the Council for Community and Technical College
20 Education and Workforce West Virginia shall:

21 (1) Make every effort to comply with the data requirements and
22 implementation schedule for the P-20W Longitudinal Data System; and

23 (2) Transfer student data and workforce data to the P-20W

1 Longitudinal Data System in accordance with the data security and
2 safeguarding plan developed pursuant to this section.

3 ~~(d)~~ (i) The state data-sharing compact entered into by the
4 commission, council, ~~and~~ State Board of Education, Workforce West
5 Virginia and West Virginia Supreme Court of Appeals shall contain
6 the following:

7 (1) A plan to establish and maintain a P-20W Longitudinal Data
8 System that links early learning, elementary, middle and secondary
9 school student unit records with higher education institution
10 student unit records and Workforce West Virginia records;

11 (2) A plan to establish a data warehouse that:

12 (A) Integrates data from multiple student unit record systems
13 and Workforce West Virginia records; ~~and~~

14 (B) Supports all of the uses and functions of the P-20W
15 Longitudinal Data System; and

16 (C) Is housed within the West Virginia Network for Educational
17 Telecomputing (WVNET);

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

20 (4) A system for entering into data sharing arrangements with
21 each other and with research organizations consistent with
22 subsection ~~(f)~~ (k) of this section; ~~and~~

23 (5) A provision that allows another party to the compact to

1 review any draft report or study generated using that party's data
2 at least ten days before the report or study is released publicly.
3 During that ten day period, each party shall be given the
4 opportunity to submit comments regarding the accuracy, conclusions
5 and recommendations of the report or study;

6 (6) A P-20W data dictionary in which all data within the P-20W
7 Longitudinal Data System will be defined. The P-20W data
8 dictionary shall minimally include the data element's definition,
9 agency ownership, contact information for information about the
10 data and the reason for collection of the data; and

11 (7) A determination of which data are available to each party
12 of the compact based on ensuring that data are only shared when
13 necessary to further the state's education and workforce systems.

14 ~~(e)~~ (j) To facilitate implementation of the requirements of
15 this section:

16 (1) The commission, council, ~~and~~ State Board of Education and
17 Workforce West Virginia are authorized to disclose data to the
18 P-20W Longitudinal Data System and to each other consistent with
19 the purposes of this section;

20 (2) With the assistance of the state Board of Education, the
21 commission, council, state institutions of higher education and
22 Workforce West Virginia shall collect the State Board of
23 Education's unique identifier for all students who have attended

1 public schools in West Virginia to facilitate better matching of
2 student unit record data.

3 (3) The commission, council, ~~and~~ State Board of Education and
4 Workforce West Virginia shall collect, use, maintain, disclose and
5 share data in accordance with personal privacy laws and shall
6 develop security measures and procedures that protect personal
7 information from intentional or accidental release to unauthorized
8 persons and from intentional or accidental use for unauthorized
9 purposes.

10 ~~(f)~~ (k) A data sharing arrangement entered into with a
11 research organization pursuant to this section shall meet the
12 following criteria:

13 (1) Permitted by and undertaken in accordance with privacy
14 protection laws;

15 (2) Receives prior approval from the state Superintendent of
16 Schools or designee, the Chancellor for Higher Education or
17 designee, ~~and~~ the Chancellor for Community and Technical College
18 Education or designee and the Executive Director of Workforce West
19 Virginia or designee, as appropriate, if data from that entity are
20 being ~~utilized~~ used in the research;

21 (3) Prohibits the personal identification of any person by
22 individuals other than authorized representatives of the research
23 organization who have legitimate interests in the information;

1 (4) Ensures the destruction or return of the data when no
2 longer needed for the authorized purposes under the data sharing
3 arrangement;

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

6 (A) Specifies the purpose, scope and duration of the data
7 sharing arrangement;

8 (B) Requires the recipient of the data to use personally
9 identifiable information from education records only to meet the
10 purpose or purposes of the data sharing arrangement stated in the
11 written agreement;

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

14 (D) Contains such other terms and provisions as the
15 commission, council, ~~and~~ State Board of Education and Workforce
16 West Virginia, as appropriate, consider necessary or appropriate.

17 ~~(g)~~ (1) As a condition of participating in state-level
18 financial aid programs provided ~~for~~ in chapter eighteen-c of this
19 code, the commission may require nonpublic institutions of higher
20 education to provide data for the P-20W Longitudinal Data System
21 and data warehouse.

NOTE: The purpose of this bill is to add Workforce West Virginia and the West Virginia Supreme Court of Appeals to the

existing entities that are to enter into a state data sharing compact; add workforce data to the data that is to be included in the P-20W Longitudinal Data System; and create a governing board of the P-20W Longitudinal Data System.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.