

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5454**

By Delegate Jennings

[Introduced February 11, 2026; referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §15A-12-3 of the Code of West Virginia, 1931, as amended, relating  
2 to the select committee for the West Virginia Fusion Center; modifying the powers of the  
3 committee; providing for the select committees access to the West Virginia Fusion Center;  
4 providing for an annual audit of the Fusion Center; establishing the parameters of the  
5 annual audit; establishing best practices; precluding access to classified information;  
6 allowing personally identifiable information to be withheld; effect of violations of Fusion  
7 Center rules; and allowing criminal referrals.

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

## **ARTICLE 12. WEST VIRGINIA FUSION CENTER.**

### **§15A-12-3. Joint Oversight Committee.**

1 (a) The Speaker of the House of Delegates and President of the Senate shall establish a  
2 select committee which shall have oversight of the ~~information collected by the West Virginia~~  
3 ~~Fusion Center to ensure the proper collection, dissemination, storage, and destruction of~~  
4 ~~information or intelligence~~ Fusion Center operates fairly, impartially, and effectively. The  
5 committee shall be composed of: (1) The Speaker of the House of Delegates and four members of  
6 the House of Delegates, to be appointed by the Speaker of the House of Delegates, no more than  
7 two of whom shall be appointed from the same political party; and (2) the President of the Senate  
8 and four members of the Senate, to be appointed by the President of the Senate, no more than two  
9 of whom shall be from the same political party; and counsel and staff to the Speaker and the  
10 Senate President: *Provided*, That in the event the membership of a political party is less than 15  
11 percent in the House of Delegates or Senate, then the membership of that political party from the  
12 legislative house with less than 15 percent membership may be one from that house. The  
13 committee shall be chaired by the President of the Senate and the Speaker of the House of  
14 Delegates. All members appointed to the select committee by the select committee chairs serve  
15 until their successors are appointed as provided in this section. ~~The select committee members,~~  
16 ~~counsel, and staff must have the appropriate security clearance in order to obtain information that~~

17 ~~is classified and shall be subject to the same rules, regulations, and laws as the employees of the~~  
18 ~~West Virginia Fusion Center for safeguarding both classified and law enforcement sensitive~~  
19 ~~information or intelligence. These select committee members, counsel, and staff shall be advised~~  
20 ~~of the restrictions and protocol for handling such information or intelligence and shall sign a~~  
21 ~~statement of understanding as well as a confidentiality agreement.~~

22 (b) Members of the select committee with their counsel and staff may enter and inspect the  
23 West Virginia Fusion Center at any time ~~staff is present with select committee counsel and staff,~~  
24 ~~with or without notice to the West Virginia Fusion Center.~~ as follows:

25 (1) The Fusion Center shall make facilities, systems, records, and personnel reasonably  
26 available to the select committee during regular operating hours;

27 (2) Access to such facilities, systems, records, and personnel outside of regular operating  
28 hours shall be by mutual agreement between the select committee and the Fusion Center;

29 (3) On-site access shall comply with all Fusion Center security and visitor-control  
30 procedures; and

31 (4) Access shall not be given to:

32 (A) Classified system, facilities, or information, as determined by the federal government;

33 (B) Local, state, or federal partner systems, networks, facilities, or data repositories that  
34 are owned or administered by other agencies; and

35 (C) Any personal identifiers, aliases, addresses, and particular content of personally  
36 identifiable information (PII) of persons, privacy, civil rights, and civil liberties of any person lawfully  
37 within the United States.

38 (c) Meetings of the select committee shall be confidential and ~~the~~ any information and  
39 materials, in any medium, including hard copy and electronic, coming to the attention of ~~or placed~~  
40 ~~in the custody of the~~ Select Committee shall not be subject to the West Virginia Freedom of  
41 Information Act as set forth in §29B-1-1 *et seq.* of this code.

42 (d) The select committee may conduct proceedings in a confidential executive session for  
43 the purpose of conducting business, establishing policy, reviewing select committee or Legislative  
44 Auditor investigations, and interrogating a witness or witnesses.

45 (e) All witnesses appearing before the select committee shall testify under oath or  
46 affirmation, and any member of the select committee or its counsel may administer oaths or  
47 affirmations to such witnesses. ~~To compel witnesses to attend a hearing or produce any books,~~  
48 ~~records, documents, or papers, or any other tangible thing except where the records, documents,~~  
49 ~~data, or items are protected from disclosure by privilege recognized by state or federal courts, the~~  
50 ~~select committee may issue subpoenas, signed by one of the co-chairs: *Provided*, That the select~~  
51 ~~committee may specifically authorize or delegate the power to any member of the select~~  
52 ~~committee to sign subpoenas on its behalf. The subpoenas shall be served by any person~~  
53 ~~authorized by law to serve and execute legal process, and service shall be made without charge.~~  
54 ~~Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is~~  
55 ~~allowed witnesses before any petit jury in this state.~~

56 (f) ~~If any person subpoenaed to appear at any hearing shall refuse to appear or to answer~~  
57 ~~inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers,~~  
58 ~~or any other tangible thing within his or her control when the same are demanded, the select~~  
59 ~~committee shall report the facts to the circuit court of Kanawha County or any other court of~~  
60 ~~competent jurisdiction and that court may compel obedience to the subpoena as though the~~  
61 ~~subpoena had been issued by that court in the first instance: *Provided*, That prior to seeking circuit~~  
62 ~~court relief, the select committee may, in its discretion, first demand the Secretary of Homeland~~  
63 ~~Security or the director of the West Virginia Fusion Center under whom an employee has failed to~~  
64 ~~appear or which has failed to produce requested or subpoenaed material to appear before the~~  
65 ~~select committee and address the basis for the failure to comply and whether compliance will be~~  
66 ~~forthcoming.~~

67 ~~(g) The select committee may direct the West Virginia Fusion Center to send its budgetary~~  
68 ~~accounting to the State Auditor: *Provided*, That if budgetary expenditures are classified, or~~  
69 ~~security or law enforcement sensitive such that disclosure would compromise an investigation,~~  
70 ~~those entry descriptions, but not the expenditure amounts, may be redacted from the West Virginia~~  
71 ~~Fusion Center accounting provided to the State Auditor: *Provided, however*, That the State Auditor~~  
72 ~~shall bring any accounting issues of concern to the attention of the select committee, upon which~~  
73 ~~the select committee shall subpoena the West Virginia Fusion Center for unredacted copies of the~~  
74 ~~accounting items to be presented for explanation and justification of the necessity and legality of~~  
75 ~~the concerns raised by the State Auditor. The select committee may take whatever action it deems~~  
76 ~~necessary, if any, after review and analysis of the subpoenaed unredacted materials.~~

77 (f) The Legislative Auditor shall conduct an annual audit of the Fusion Center to ensure that  
78 the Fusion Center operates within legal parameters. The audit shall be completed and provided to  
79 the select committee by December 1 each year. The audit shall review:

80 (1) All non-classified operations of the Fusion Center for the preceding federal fiscal year,  
81 October 1 through September 30;

82 (2) All non-classified records of internal investigations where the Fusion Center knowingly  
83 participated in activity, knowingly cooperated with a federal agency, or knowingly cooperated with  
84 a contractor for any federal agency that involved illegal or improper actions;

85 (3) All non-classified records of disciplinary action taken against employees or contractors  
86 who have knowingly participated in activity, knowingly cooperated with a federal agency, or  
87 knowingly cooperated with a contractor for any federal agency engaged in illegal activity or  
88 improper actions;

89 (4) All non-classified records that demonstrate the steps taken to exclude federal agencies  
90 or federal contractors from working inside the Fusion Center when it was known or there was  
91 reason to know that the federal agencies or federal contractors intended to engage in unlawful  
92 intelligence-gathering activity against a citizen of West Virginia;

- 93 (5) All non-classified steps taken by the Fusion Center, cabinet secretary and deputy  
94 cabinet secretary for the West Virginia Department of Homeland Security to oversee the Fusion  
95 Center that:
- 96 (A) Facilitate and implement applicable federal standards and programs;  
97 (B) Ensure compliance with all applicable laws and federal requirements;  
98 (C) Maintain proper separation between military and civilian capacities; and  
99 (D) Ensure the resources of the Fusion Center are used in a legal and proper manner.
- 100 (6) All non-classified information that demonstrates compliance with the provisions of 28  
101 C.F.R. Part 23;
- 102 (7) All certifications in writing under 28 C.F.R. §23.30 that the secretary or his/her designee  
103 has taken full responsibility and is accountable for the information maintained and disseminated  
104 by the Fusion Center and that the operation of the Fusion Center is in compliance with the  
105 applicable federal requirements;
- 106 (8) The results, findings, and corrective actions taken as a result of any audit conducted  
107 pursuant to the provisions of 28 C.F.R. §23.40;
- 108 (9) The annual training of Fusion Center employees, making recommendations for  
109 improvement, if any;
- 110 (10) All security incidents;
- 111 (11) The purchasing process of the Fusion Center, and its compliance with applicable law  
112 and regulation;
- 113 (12) The policies for safeguarding, storing, and destroying sensitive information;  
114 (13) The physical security of the Fusion Center, its systems and space;  
115 (14) All non-classified equipment and software used by the Fusion Center; and  
116 (15) All memoranda of understanding entered into by the Fusion Center;  
117 (g) The audit shall also recommend best practices for the Fusion Center to:

118 (1) Ensure that the Fusion Center adheres to 28 C.F.R. Part 23 and any other federal or  
119 state law designed to protect privacy and the other legal rights of individuals; and,

120 (2) Provide for the smooth exchange of information among all agencies participating in the  
121 Fusion Center.

122 (h) The annual audit shall not include examination of, or access to, local, state, or federal  
123 partner systems, networks, facilities, or data repositories that are owned or administered by other  
124 agencies. The annual audit shall also not include examination of any classified systems, facilities  
125 or information.

126 (i) Any personal identifiers, aliases, addresses, and particular content of personally  
127 identifiable information (PII) of persons, privacy, civil rights, and civil liberties of any person lawfully  
128 within the United States are beyond the scope of the annual audit and shall be appropriately  
129 anonymized and aggregated to the extent necessary for the protection of sensitive information.

130 (j) An audit finding of an intentional violation of 28 C.F.R. Part 23, other applicable state or  
131 federal laws or regulations, or any egregious, illegal, malicious, or willfully negligent conduct by a  
132 Fusion Center employee or embedded partner shall be grounds for revocation of access to the  
133 Fusion Center and may result in termination of employment. Any such findings shall be referred to  
134 the appropriate law-enforcement agency for investigation, and, if warranted, prosecution.

NOTE: The purpose of this bill is to define the authorities of the select committee's oversight of the West Virginia Fusion Center, to direct the Legislative Auditor to conduct an annual audit of the Fusion Center, and to define the parameters of that audit.

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