

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

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5 FOR

6 **Senate Bill No. 420**

7 (By Senators Plymale, Kessler (Mr. President), Beach, Cann,  
8 Chafin, Cookman, Facemire, Edgell, Kirkendoll, Laird, McCabe,  
9 Miller, Palumbo, Prezioso, Snyder, Stollings, Tucker, Williams,  
10 Wells and Barnes)

11 \_\_\_\_\_  
12 [Originating in the Committee on Finance;  
13 reported February 12, 2014.]

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15  
16 A BILL to amend and reenact §18B-1D-10 of the Code of West  
17 Virginia, 1931, as amended, relating to adding the Bureau for  
18 Children and Families, WorkForce West Virginia and the West  
19 Virginia Supreme Court of Appeals to the existing entities  
20 that are to enter into a state data-sharing compact; adding  
21 child care and workforce data to the data that is to be  
22 included in the P-20W Longitudinal Data System; revising  
23 legislative findings; adding definitions; creating a governing  
24 board of the P-20W Longitudinal Data System; setting forth

1 membership of the board; setting forth authority and duties of  
2 the board; adding requirements for the Bureau for Children and  
3 Families, the State Board of Education, the Higher Education  
4 Policy Commission, the Council for Community and Technical  
5 College Education and WorkForce West Virginia; requiring the  
6 data warehouse to be housed within the West Virginia Network  
7 for Educational Telecomputing; and adding components to the  
8 state data-sharing compact.

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

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

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

13 **§18B-1D-10. State data sharing compact; legislative intent;**  
14 **findings; definitions.**

15 (a) The intent of the Legislature in enacting this section is  
16 to direct the commission, council, ~~and~~ State Board of Education,  
17 the Bureau for Children and Families, WorkForce West Virginia and  
18 the West Virginia Supreme Court of Appeals to enter into a state  
19 compact, consistent with the provisions of section six of this  
20 article, on or before ~~July 1, 2009~~ July 1, 2014, to develop and  
21 maintain a P-20W Longitudinal education Data System and to share  
22 ~~educational~~ child care, education and workforce information.

23 (b) The Legislature makes the following findings:

24 (1) Sound data collection, reporting and analysis are critical

1 to building an education system capable of ensuring that all West  
2 Virginia students are adequately prepared for college and the  
3 global workforce. Elementary schools, middle schools, secondary  
4 schools and higher education institutions can improve instructional  
5 and educational decisionmaking using data that are collected and  
6 made available to them.

7 (2) State education policymaking benefits from partnerships  
8 between state education agencies, the Bureau for Children and  
9 Families, WorkForce West Virginia, the West Virginia Supreme Court  
10 of Appeals and entities with expertise in child care, education and  
11 workforce research. It is beneficial for West Virginia to  
12 establish systems and processes that permit qualified researchers  
13 to assist with state evaluation and research functions in a manner  
14 that is consistent with privacy protection laws.

15 (3) West Virginia is committed to establishing and maintaining  
16 a longitudinal child care, student and workforce unit record data  
17 system that educators and policymakers can use to analyze and  
18 assess student progress beginning with early ~~learning~~ care and  
19 education programs and continuing through post-secondary education  
20 and into employment. The commission, council, ~~and~~ State Board of  
21 Education and WorkForce West Virginia have designed, built and  
22 deployed some of the fundamental components of a longitudinal data  
23 system and have engaged in extensive efforts to link and use  
24 available education data effectively. Now, it is necessary to

1 integrate and manage the various child care, education and and  
2 workforce data components in a cooperative manner to establish a  
3 data-driven, decision-making environment for this state's child  
4 care, education ~~system~~ and workforce systems.

5 (4) Students will achieve improved learning and workforce  
6 outcomes because of the P-20W Longitudinal Data System established  
7 through the state compact mandated by this section.

8 (5) Examples of research that can be conducted using child  
9 care, education and workforce data include:

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

11 (B) The impact of child care programs;

12 (C) The performance of educator preparation programs;

13 (D) Best practices for classroom instruction, education  
14 programs and curriculum; and

15 (E) Gauging success in preparing students for the 21st century  
16 workforce.

17 (6) State use and management of child care, education and and  
18 workforce data shall be in accordance with all legal requirements  
19 protecting student privacy and shall protect personal information  
20 from intentional or accidental release to unauthorized persons and  
21 from intentional or accidental use for unauthorized purposes.

22 (c) Definitions:

23 ~~(1) "Longitudinal Data System" means a student unit record~~  
24 ~~data system that links student records beginning with early~~

1 ~~learning programs and continuing through post-secondary education,~~  
2 ~~entry into the workforce and beyond. The system may consist of~~  
3 ~~separate student unit record systems integrated through agreement~~  
4 ~~and data transfer mechanisms.~~

5 (1) "Child care data" means data relating to enrollment,  
6 attendance, demographics, the quality of child care received and  
7 any other nonconfidential data necessary for furthering the state's  
8 child care, education and workforce systems and agreed to in the  
9 state compact required by this section.

10 (2) "Confidential information" means data relating to a  
11 person's Social Security number or other identification number  
12 issued by a state or federal agency except for a unique identifier  
13 generated as part of the system mandated by this section, email  
14 address, religious affiliation, whether the person or a member of  
15 their household owns or possesses a firearm, whether the person or  
16 their family are or were recipients of financial assistance from a  
17 state or federal agency, medical, psychological or behavioral  
18 diagnoses, criminal history, criminal history of parents, siblings  
19 or any members of the person's household, IP address, vehicle  
20 registration number, driver's license number, biometric  
21 information, handwriting sample, credit card numbers, consumer  
22 credit history, credit score, or genetic information.

23 (3) "Governing board" means the governing board of the P20-W  
24 Longitudinal Data System.

1       (4) "P-20W Longitudinal Data System" means a child care,  
2 student and workforce unit record data system that links child  
3 care, student and workforce records beginning with early care and  
4 education programs and continuing through post-secondary education,  
5 entry into the workforce and beyond. The system may consist of  
6 separate unit record systems integrated through agreement and data  
7 transfer mechanisms.

8       (5) "Personally identifiable information" means information  
9 that can be used on its own or with other information to identify,  
10 contact or locate a single person, or to identify an individual  
11 within the context of other information disclosed pursuant to this  
12 section.

13       ~~(2)~~ (6) "Privacy protection laws" means the federal Family  
14 Educational Rights and Privacy Act of 1974 (20 U. S. C. 1232g) and  
15 any other state or federal laws relating to the confidentiality and  
16 protection of personally identifiable information.

17       ~~(3)~~ (7) "Research organization" means a governmental entity,  
18 institution of higher education, public policy organization or  
19 other person or entity conducting educational research that meets  
20 the following conditions:

21       (i) Qualified to perform ~~educational~~ child care, education and  
22 workforce research and protect the privacy of ~~student~~ data;

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

1 (iii) Agrees to perform the research pursuant to a written  
2 agreement meeting the requirements of privacy protection laws and  
3 best research practices.

4 (8) "Student data" means data relating to student performance,  
5 and includes: State and national assessments; course taking and  
6 completion; grade point average; remediation; retention; degree,  
7 diploma or credential attainment; enrollment; attendance;  
8 demographic data; and any other nonconfidential data necessary for  
9 furthering the state's child care, education and workforce systems  
10 and agreed to in the state compact required by this section.

11 (9) "Workforce data" means data relating to employment status  
12 and includes: Wage information; geographic location of employment;  
13 employer information; and any other nonconfidential data necessary  
14 for furthering the state's child care, education and workforce  
15 systems and agreed to in the state compact required by this  
16 section.

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

19 (1) A designee agreed to by the Chancellor for Higher  
20 Education and the Chancellor for Community and Technical College  
21 Education;

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

23 (3) A representative of the Office of Data Management and  
24 Analysis within the Department of Education to be appointed by the

1 State Superintendent of Schools;

2 (4) The Executive Director of WorkForce West Virginia or  
3 designee;

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

6 (6) The Director of the West Virginia Network for Educational  
7 Computing or designee; and

8 (7) The state administrator responsible for the federal Child  
9 Care and Development Block Fund.

10 (e) The governing board shall elect a chair from among its  
11 members.

12 (f) The governing board may:

13 (1) Propose rules for legislative approval in accordance with  
14 article three-a, chapter twenty-nine-a of this code to implement  
15 the provisions of this section;

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

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

20 (g) The governing board shall:

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



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

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

6 (4) Create an inventory of the individual child care, student  
7 and workforce data to be maintained in the system and the data  
8 required to be reported by state and federal education mandates;

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

13 (6) Develop a detailed data security and safeguarding plan  
14 that includes:

15 (i) Authorized access and authentication for authorized  
16 access;

17 (ii) Privacy compliance standards;

18 (iii) Privacy and security audits;

19 (iv) Breach notification and procedures; and

20 (v) Data retention and disposition policies;

21 (7) Oversee routine and ongoing compliance with privacy  
22 protection laws and the governing board's detailed data security  
23 and safeguarding plan;

24 (8) Ensure that all data reside within the State of West

1 Virginia including any data stored as backup;

2 (9) Ensure that any contracts entered into on or after the  
3 effective date of the amendments to this section during the 2014  
4 regular session of the Legislature that govern databases and that  
5 are outsourced to private vendors include express provisions that  
6 safeguard privacy and security and include penalties for  
7 noncompliance;

8 (10) Designate a standard and compliance timeline for  
9 electronic transcripts that includes the use of the State Board of  
10 Education's unique identifier for all students who have attended  
11 public schools in West Virginia to ensure the uniform and efficient  
12 transfer of student data between local education agencies and  
13 institutions of higher education;

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

17 (12) Report the following to the Governor and the Legislative  
18 Oversight Commission on Education Accountability by November 15 of  
19 each year:

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

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

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

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

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

6 (13) Prohibit the collection of confidential information as  
7 defined in this section.

8 (h) The Bureau for Children and Families, the State Board of  
9 Education, the Higher Education Policy Commission, the Council for  
10 Community and Technical College Education and WorkForce West  
11 Virginia shall:

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

14 (2) Transfer child care data, student data and workforce data  
15 to the P-20W Longitudinal Data System in accordance with the data  
16 security and safeguarding plan developed pursuant to this section.

17 ~~(d)~~ (i) The state data-sharing compact entered into by the  
18 commission, council, and State Board of Education, Bureau for  
19 Children and Families, WorkForce West Virginia and West Virginia  
20 Supreme Court of Appeals shall contain the following:

21 (1) A plan to establish and maintain a P-20W Longitudinal Data  
22 System that links child care, early learning, elementary, middle  
23 and secondary school student unit records with higher education  
24 institution student unit records and WorkForce West Virginia

1 records;

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

3 (A) Integrates data from multiple child care, student and  
4 workforce unit record systems; ~~and~~

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

7 (C) Is housed within the West Virginia Network for Educational  
8 Telecomputing (WVNET);

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

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

14 (5) A provision that allows another party to the compact to  
15 review any draft report or study generated using that party's data  
16 at least ten days before the report or study is released publicly.  
17 During that ten-day period, each party shall be given the  
18 opportunity to submit comments regarding the accuracy, conclusions  
19 and recommendations of the report or study;

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

1        (7) A determination of which data are available to each party  
2 of the compact based on ensuring that data are only shared when  
3 necessary to further the state's child care, education and  
4 workforce systems.

5        ~~(e)~~ (j) To facilitate implementation of the requirements of  
6 this section:

7        (1) The commission, council, ~~and~~ State Board of Education,  
8 Bureau for Children and Families and WorkForce West Virginia are  
9 authorized to disclose data to the P-20W Longitudinal Data System  
10 and to each other consistent with the purposes of this section;

11        (2) With the assistance of the ~~state~~ State Board of Education,  
12 the commission, council, state institutions of higher education and  
13 WorkForce West Virginia shall collect the State Board of  
14 Education's unique identifier for all students who have attended  
15 public schools in West Virginia to facilitate better matching of  
16 student unit record data; and

17        (3) The commission, council, ~~and~~ State Board of Education,  
18 Bureau for Children and Families and WorkForce West Virginia shall  
19 collect, use, maintain, disclose and share data in accordance with  
20 personal privacy laws and shall develop security measures and  
21 procedures that protect personal information from intentional or  
22 accidental release to unauthorized persons and from intentional or  
23 accidental use for unauthorized purposes.

24        ~~(f)~~ (k) A data sharing arrangement entered into with a

1 research organization pursuant to this section shall meet the  
2 following criteria:

3 (1) Permitted by and undertaken in accordance with privacy  
4 protection laws;

5 (2) Receives prior approval from the State Superintendent of  
6 Schools or designee, the Chancellor for Higher Education or  
7 designee, ~~and~~ the Chancellor for Community and Technical College  
8 Education or designee, the state administrator responsible for the  
9 federal Child Care and Development Block Fund and the Executive  
10 Director of WorkForce West Virginia or designee, as appropriate, if  
11 data from that entity are being ~~utilized~~ used in the research;

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

15 (4) Ensures the destruction or return of the data when no  
16 longer needed for the authorized purposes under the data sharing  
17 arrangement; and

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

20 (A) Specifies the purpose, scope and duration of the data  
21 sharing arrangement;

22 (B) Requires the recipient of the data to use personally  
23 identifiable information from education records only to meet the  
24 purpose or purposes of the data sharing arrangement stated in the

1 written agreement;

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

4 (D) Contains such other terms and provisions as the  
5 commission, council, ~~and~~ State Board of Education, Bureau for  
6 Children and Families and WorkForce West Virginia, as appropriate,  
7 consider necessary or appropriate.

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