

1 **ENROLLED**

2 **H. B. 3340**

3
4 (By Delegates M. Poling and Paxton)
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6 [Passed April 10, 2009; in effect from passage.]
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11 AN ACT to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §18B-1D-10, relating
13 to entry into a data state compact among the Higher Education
14 Policy Commission, Council for Community and Technical College
15 Education and State Board of Education; authorizing
16 disclosures of information among the parties; requiring that
17 personal privacy laws be obeyed and security measures and
18 procedures be developed; and setting forth requirements for
19 data sharing arrangements with research organizations.

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

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

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

25 **§18B-1D-10. State data sharing compact; legislative intent;**

1 **findings; definitions.**

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

8 (b) The Legislature makes the following findings:

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

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

22 (3) West Virginia is committed to establishing and maintaining
23 a longitudinal student unit record data system that educators and
24 policymakers can use to analyze and assess student progress

1 beginning with early learning programs and continuing through post-
2 secondary education and into employment. The commission, council
3 and State Board of Education have designed, built and deployed some
4 of the fundamental components of a longitudinal data system and
5 have engaged in extensive efforts to link and use available
6 education data effectively. Now, it is necessary to integrate and
7 manage the various education data components in a cooperative
8 manner to establish a data-driven, decision-making environment for
9 this state's education system.

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

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

18 (c) Definitions:

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

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

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

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

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

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

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

19 (1) A plan to establish and maintain a longitudinal data
20 system that links early learning, elementary, middle and secondary
21 school student unit records with higher education institution
22 student unit records;

23 (2) A plan to establish a data warehouse that integrates data
24 from multiple student unit record systems and supports all of the

1 uses and functions of the longitudinal data system;

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

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

7 (5) A provision that allows another party to the compact to
8 review any draft report or study generated using that party's data
9 at least ten days before the report or study is released publicly.
10 During that ten day period, each party shall be given the
11 opportunity to submit comments regarding the accuracy, conclusions
12 and recommendations of the report or study.

13 (e) To facilitate implementation of the requirements of this
14 section:

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

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

23 (3) The commission, council and State Board of Education shall
24 collect, use, maintain, disclose and share data in accordance with

1 personal privacy laws and shall develop security measures and
2 procedures that protect personal information from intentional or
3 accidental release to unauthorized persons and from intentional or
4 accidental use for unauthorized purposes.

5 (f) A data sharing arrangement entered into with a research
6 organization pursuant to this section shall meet the following
7 criteria:

8 (1) Permitted by and undertaken in accordance with privacy
9 protection laws;

10 (2) Receives prior approval from the State Superintendent of
11 Schools or designee, the Chancellor for Higher Education or
12 designee, and the Chancellor for Community and Technical College
13 Education or designee, as appropriate, if data from that entity are
14 being utilized in the research;

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

18 (4) Ensures the destruction or return of the data when no
19 longer needed for the authorized purposes under the data sharing
20 arrangement;

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

23 (A) Specifies the purpose, scope and duration of the data
24 sharing arrangement;

1 (B) Requires the recipient of the data to use personally
2 identifiable information from education records only to meet the
3 purpose or purposes of the data sharing arrangement stated in the
4 written agreement;

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

7 (D) Contains such other terms and provisions as the
8 commission, council and State Board of Education, as appropriate,
9 consider necessary or appropriate.

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