

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 964
PROPOSED COMMITTEE SUBSTITUTE H964-PCS70310-TC-41

Short Title: NC Longitudinal Data System.

(Public)

Sponsors:

Referred to:

May 17, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE NORTH CAROLINA LONGITUDINAL DATA SYSTEM AND
3 GOVERNING BOARD; AND TO PROVIDE THAT PRIVATE COLLEGES AND
4 UNIVERSITIES, NONPUBLIC SCHOOLS, AND THE NORTH CAROLINA
5 INDEPENDENT COLLEGES AND UNIVERSITIES ARE NOT LIABLE FOR A
6 BREACH OF CONFIDENTIALITY CAUSED BY THE ACT OR OMISSION OF A
7 STATE AGENCY, LOCAL SCHOOL ADMINISTRATIVE UNIT, COMMUNITY
8 COLLEGE, OR CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH
9 CAROLINA.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.(a)** The General Statutes are amended by adding a new Chapter to
12 read:

13 **"Chapter 116E.**

14 **"Education Longitudinal Data System.**

15 **"Article 1.**

16 **"North Carolina Longitudinal Data System.**

17 **"§ 116E-1. Definitions.**

- 18 (1) "Board" means the governing board of the North Carolina Longitudinal Data
19 System.
- 20 (2) "De-identified data" means a data set in which parent and student identity
21 information, including the unique student identifier and student social
22 security number, has been removed.
- 23 (3) "FERPA" means the federal Family Educational Rights and Privacy Act, 20
24 U.S.C. § 1232g.
- 25 (4) "Student data" means data relating to student performance. Student data
26 includes State and national assessments, course enrollment and completion,
27 grade point average, remediation, retention, degree, diploma or credential
28 attainment, enrollment, discipline records, and demographic data. Student
29 data does not include juvenile delinquency records, criminal records, and
30 medical and health records.
- 31 (5) "System" means the North Carolina Longitudinal Data System.
- 32 (6) "Unique Student Identifier" or "UID" means the identifier assigned to each
33 student by one of the following:



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- 1 a. A local school administrative unit based on the identifier system
2 developed by the Department of Public Instruction.
3 b. An institution of higher education, nonpublic school, or other State
4 agency operating or overseeing an educational program, if the
5 student has not been assigned an identifier by a local school
6 administrative unit.
7 (7) "Workforce data" means data relating to employment status, wage
8 information, geographic location of employment, and employer information.

9 **"§ 116E-2. Purpose of the North Carolina Longitudinal Data System.**

10 (a) The North Carolina Longitudinal Data System is a statewide data system that
11 contains individual-level student data and workforce data from all levels of education and the
12 State's workforce. The purpose of the System is to do the following:

- 13 (1) Facilitate and enable the exchange of student data among agencies and
14 institutions within the State.
15 (2) Generate timely and accurate information about student performance that
16 can be used to improve the State's education system and guide decision
17 makers at all levels.
18 (3) Facilitate and enable the linkage of student data and workforce data.

19 (b) The linkage of student data and workforce data for the purposes of the System shall
20 be limited to no longer than five years from the later of the date of the student's completion of
21 secondary education or the date of the student's latest attendance at an institution of higher
22 education in the State.

23 **"§ 116E-3. North Carolina Longitudinal Data System Board.**

24 (a) There is established the North Carolina Longitudinal Data System Board which
25 shall consist of the following 17 members:

- 26 (1) The Superintendent of Public Instruction, or the Superintendent's designee.
27 (2) The President of The University of North Carolina, or the President's
28 designee.
29 (3) The President of the North Carolina Community College System, or the
30 President's designee.
31 (4) The Secretary of the Department of Health and Human Services, or the
32 Secretary's designee.
33 (5) The Assistant Secretary of the Department of Commerce, Division of
34 Employment Security, or the Assistant Secretary's designee.
35 (6) The Secretary of the Department of Revenue, or the Secretary's designee.
36 (7) The Commissioner of Labor, or the Commissioner's designee.
37 (8) The President of the North Carolina Independent Colleges and Universities,
38 Inc., or the President's designee.
39 (9) The Commissioner of Motor Vehicles, Department of Transportation, or the
40 Commissioner's designee.
41 (10) The State Chief Information Officer, or the Officer's designee.
42 (11) Three members appointed by the President Pro Tempore of the Senate.
43 (12) Three members appointed by the Speaker of the House of Representatives.
44 (13) One member appointed by the Governor, to serve at the Governor's pleasure.

45 (b) Appointed members of the Board shall serve terms of four years. Appointed
46 members may be reappointed but shall not serve more than two consecutive terms. Vacancies
47 among appointed members shall be filled by the appointing entity and shall be for the
48 remainder of the vacant term.

49 (c) The Board shall elect from the appointed members a chair and a vice-chair for a
50 term of two years. A chair may serve no more than two consecutive terms.

1 (d) The Board shall appoint a Director for the System. The Director shall serve as
2 secretary to the Board.

3 (e) Members of the Board shall receive such per diem compensation and necessary
4 travel and subsistence expenses while engaged in the official discharge of the official duties as
5 is provided by law for members of State boards and commissions.

6 **"§ 116E-4. Powers and duties of the Board.**

7 (a) The Board shall have the following powers and duties:

8 (1) Develop an implementation plan to phase in the establishment and operation
9 of the System.

10 (2) Provide general oversight and direction to the System.

11 (3) Approve the annual budget for the System.

12 (4) Before the use of any individual data in the System, the Board shall do the
13 following:

14 a. Create an inventory of the individual student data proposed to be
15 accessible in the System and required to be reported by State and
16 federal education mandates.

17 b. Develop and implement policies to comply with FERPA and any
18 other privacy measures, as required by law or the Board.

19 c. Develop a detailed data security and safeguarding plan that includes
20 the following:

21 1. Authorized access and authentication for authorized access.

22 2. Privacy compliance standards.

23 3. Privacy and security audits.

24 4. Breach notification and procedures.

25 5. Data retention and disposition policies.

26 (5) Oversee routine and ongoing compliance with FERPA and other relevant
27 privacy laws and policies.

28 (6) Ensure that any contracts that govern databases that are outsourced to private
29 vendors include express provisions that safeguard privacy and security and
30 include penalties for noncompliance.

31 (7) Designate a standard and compliance time line for electronic transcripts that
32 includes the use of UID to ensure the uniform and efficient transfer of
33 student data between local school administrative units and institutions of
34 higher education.

35 (8) Review research requirements and set policies for the approval of data
36 requests from State and local agencies, the General Assembly, and the
37 public.

38 (9) Establish an advisory committee on data quality to advise the Board on
39 issues related to data auditing and tracking to ensure data validity.

40 (b) The Board shall adopt rules according to Chapter 150B of the General Statutes as
41 provided in G.S. 116E-6 to implement the provisions of this Article.

42 (c) The Board shall report annually to the Joint Legislative Education Oversight
43 Committee by December 15. The report shall include the following:

44 (1) An update on the implementation of the System's activities.

45 (2) Any proposed or planned expansion of System data.

46 (3) Any other recommendations made by the Board, including the most
47 effective and efficient configuration for the System.

48 **"§ 116E-5. North Carolina Longitudinal Data System.**

49 (a) There is created the North Carolina Longitudinal Data System. The System shall be
50 located administratively within the Department of Public Instruction but shall exercise its

1 powers and duties independently of the Department of Public Instruction and the State Board of
2 Education.

3 (b) The System shall allow users to do the following:

4 (1) Effectively organize, manage, disaggregate, and analyze individual student
5 and workforce data.

6 (2) Examine student progress and outcomes over time, including preparation for
7 postsecondary education and the workforce.

8 (c) The System shall be considered an authorized representative of the Department of
9 Public Instruction, The University of North Carolina, and the North Carolina System of
10 Community Colleges under applicable federal and State statutes for purposes of accessing and
11 compiling student record data for research purposes.

12 (d) The System shall perform the following functions and duties:

13 (1) Serve as a data broker for the System, including data maintained by the
14 following:

15 a. The Department of Public Instruction.

16 b. Local boards of education, local school administrative units, and
17 charter schools.

18 c. The University of North Carolina and its constituent institutions.

19 d. The Community Colleges System Office and local community
20 colleges.

21 e. The North Carolina Independent College and Universities, Inc., and
22 private colleges or universities.

23 f. Nonpublic schools serving elementary and secondary students.

24 g. The Department of Commerce, Division of Employment Security.

25 h. The Department of Revenue.

26 i. The Department of Health and Human Services.

27 j. The Department of Labor.

28 (2) Ensure routine and ongoing compliance with FERPA, the Internal Revenue
29 Code, and other relevant privacy laws and policies, including the following:

30 a. The required use of de-identified data in data research and reporting.

31 b. The required disposition of information that is no longer needed.

32 c. Providing data security, including the capacity for audit trails.

33 d. Providing for performance of regular audits for compliance with data
34 privacy and security standards.

35 e. Implementing guidelines and policies that prevent the reporting of
36 other potentially identifying data.

37 (3) Facilitate information and data requests for State and federal education
38 reporting with existing State agencies as appropriate.

39 (4) Facilitate approved public information requests.

40 (5) Develop a process for obtaining information and data requested by the
41 General Assembly and Governor of current de-identified data and research.

42 (e) Use of data accessible through the System shall be regulated in the following ways:

43 (1) Direct access to data shall be restricted to authorized staff of the System.

44 (2) Only de-identified data shall be used in the analysis, research, and reporting
45 conducted by the System.

46 (3) The System shall only use aggregate data in the release of data in reports and
47 in response to data requests.

48 (4) Data that may be identifiable based on the size or uniqueness of the
49 population under consideration shall not be reported in any form by the
50 System.

- 1 (5) The System shall not release information that may not be disclosed under
2 FERPA, the Internal Revenue Code, and other relevant privacy laws and
3 policies.
- 4 (6) Individual or personally identifiable data accessed through the System shall
5 not be a public record under G.S. 132-1.
- 6 (f) The System may receive funding from the following sources:
- 7 (1) State appropriations.
- 8 (2) Grants or other assistance from local school administrative units, community
9 colleges, constituent institutions of The University of North Carolina, or
10 private colleges and universities.
- 11 (3) Federal grants.
- 12 (4) Any other grants or contributions from public or private entities received by
13 the System.

14 "**§ 116E-6. Data sharing.**

15 (a) Local school administrative units, charter schools, community colleges, constituent
16 institutions of The University of North Carolina, and State agencies shall do all of the
17 following:

- 18 (1) Comply with the data requirements and implementation schedule for the
19 System as set forth by the Board.
- 20 (2) Transfer student data and workforce data to the System in accordance with
21 the data security and safeguarding plan developed by the Board under
22 G.S. 116E-5.

23 (b) Private colleges and universities, the North Carolina Independent Colleges and
24 Universities, Inc., and nonpublic schools may transfer student data and workforce data to the
25 System in accordance with the data security and safeguarding plan developed by the Board
26 under G.S. 116E-5."

27 **SECTION 1.(b)** G.S. 105-259(b) is amended by adding a new subdivision to read:

28 "(43) To provide data to the North Carolina Longitudinal Data System. Data
29 provided to the System shall not include information allowing the
30 identification of specific taxpayers."

31 **SECTION 1.(c)** Notwithstanding G.S. 116E-6 as created by this act, State agencies
32 that have not received an appropriation or sufficient grant funding to support participation in a
33 longitudinal data system shall not be required to submit data to the System prior to July 1,
34 2015.

35 **SECTION 1.(d)** Appointments to the North Carolina Longitudinal Data System
36 Board shall be made by the appointing entity no later than August 1, 2012. The State Board of
37 Education, the Board of Governors of The University of North Carolina, the State Board of
38 Community Colleges, the Division of Employment Security of the Department of Commerce,
39 the Department of Revenue, the Department of Health and Human Services, the Division of
40 Motor Vehicles of the Department of Transportation, and the Department of Labor, in
41 consultation with the North Carolina Independent Colleges and Universities, Inc., shall
42 establish the North Carolina Longitudinal Data System that shall be fully operational by July 1,
43 2014. Prior to facilitating access to any individual data in the North Carolina Longitudinal
44 Data System, the North Carolina Longitudinal Data System Board shall report to the Joint
45 Legislative Education Oversight Committee on the inventory of individual student data
46 proposed to be maintained in the System, the policies of the Board to comply with the federal
47 Family Educational Rights and Privacy Act, Internal Revenue Code and other privacy measures
48 required by law and the Board, and a data security and safeguarding plan for the System. The
49 Board shall (i) evaluate the efficiency, effectiveness, and cost in structuring the System as a
50 federated data system or a centralized data warehouse and (ii) assess the technical capabilities

1 and costs of each entity for data sharing through the System, and shall report to the Joint
2 Legislative Education Oversight Committee on those issues by January 15, 2013.

3 **SECTION 2.** Article 39 of Chapter 115C of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 115C-566.1. Disclosure of student data and records by nonpublic schools.**

6 A nonpublic school that discloses personally identifiable information in student data or
7 records according to the terms of a written agreement with a State agency, local school
8 administrative unit, community college, or constituent institution of The University of North
9 Carolina, in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. §
10 1232g, shall not be liable for a breach of confidentiality, disclosure, use, retention, or
11 destruction of the student data or records if the breach, disclosure, use, retention, or destruction
12 results from actions or omissions of either (i) the State agency, local school administrative unit,
13 community college, or constituent institution of The University of North Carolina to which the
14 data was provided or (ii) persons provided access to the data or records by those entities."

15 **SECTION 3.** Chapter 116 of the General Statutes is amended by adding a new
16 article to read:

17 "Article 27A.

18 "Disclosure of Student Data and Records by Private Institutions.

19 **"§ 116-229.1. Disclosure of student data and records by private colleges and universities.**

20 (a) A private college or university that discloses personally identifiable information in
21 student data or records according to the terms of a written agreement with a State agency, local
22 school administrative unit, community college, constituent institution of The University of
23 North Carolina, or the North Carolina Independent Colleges and Universities, Inc., in
24 compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, shall not
25 be liable for a breach of confidentiality, disclosure, use, retention, or destruction of the student
26 data or records if the breach, disclosure, use, retention, or destruction results from actions or
27 omissions of either (i) the State agency, local school administrative unit, community college, or
28 constituent institution of The University of North Carolina to which the data was provided or
29 (ii) persons provided access to the data or records by those entities.

30 (b) The North Carolina Independent Colleges and Universities, Inc., shall not be liable
31 for a breach of confidentiality, disclosure, use, retention, or destruction of student data or
32 records transferred on behalf of a private college or university to a State agency, local school
33 administrative unit, community college, or constituent institution of The University of North
34 Carolina if the breach, disclosure, use, retention, or destruction results from actions or
35 omissions of either (i) the State agency, local school administrative unit, community college, or
36 constituent institution of The University of North Carolina to which the data was provided or
37 (ii) persons provided access to the data or records by those entities."

38 **SECTION 4.** This act is effective when it becomes law.