

The Evolution of Student-Level Data Legislation

BY: COLLEEN E. CAMPBELL, AMANDA JANICE, AND MAMIE VOIGHT¹

In preparation for Higher Education Act reauthorization, the House of Representatives and the Senate have been focusing on improvements to, and modernization of, the postsecondary data infrastructure. This bicameral emphasis on data enhancements reflects a growing recognition that the use of high-quality data by students, institutions, policymakers, and researchers can advance student success. But currently available data do not sufficiently demonstrate the experience and outcomes of today's college students.

One proposal for strengthening data systems to more effectively promote student success is a federal student-level data system. Despite a 2008 ban on the creation of this type of system, interest has re-emerged and grown in recent years. Four pieces of legislation—the Higher Education Affordability Act and three versions of the Student Right to Know Before You Go Act—call for student-level data collection in varying forms. This memo describes the growing tide of support for better postsecondary data, provides an overview of the bills, and presents a detailed side-by-side comparison of the four pieces of legislation.

Ongoing Calls for Better Data

Access to higher quality postsecondary data on institutions, and in some cases programs, has become a priority for federal policymakers, who recognize the importance of data in answering key national policy questions that will help advance postsecondary opportunity and success for students. Leaders have lamented the gaps in federal postsecondary data, including Representative Virginia Foxx (R-NC), who concluded a 2012 House Committee on Education and the Workforce hearing by saying,

“We have so much data, and we seem to know so little. What a tragedy for all the money that we are spending in this country. Yes, we have I think the greatest higher education system in the world. And I want to see it stay that way. And I also want the consumers to get the best information that they can get so they can be making good decisions.”²

¹ Colleen E. Campbell is a former Research Analyst, Amanda Janice is a Research Analyst, and Mamie Voight is Director of Policy Research at the Institute for Higher Education Policy.

² Committee on Education and the Workforce. *Assessing College Data: Helping to Provide Valuable Information to Students, Institutions, and Taxpayers*. Retrieved from <http://www.gpo.gov/fdsys/pkg/CHRG-112hhrg75856/pdf/CHRG-112hhrg75856.pdf>.

In fact, the current federal data infrastructure is insufficient to answer core, student-centric questions about colleges and universities, such as:

- What is the graduation rate of Pell Grant recipients, part-time students, transfer students, adults, or veterans?
- How many students transfer from a community college to a four-year institution?
- How likely are graduates to obtain employment, and how much do they earn?
- How much do students learn in college?

These unanswered questions have sparked a variety of efforts to provide students and families with better information through tools like the White House's College Scorecard, the House-proposed College Dashboard, and President Obama's proposed college ratings system. These high-profile proposals to improve student success through the use of high-quality postsecondary data also have reignited policy discussions around the potential for student-level data collection at the federal level.

Background: The 2008 Ban

Section 134 of the Higher Education Opportunity Act of 2008 (HEOA) prohibits a federal student unit record system.³ The legislation states:

“... Nothing in this Act shall be construed to authorize the development, implementation, or maintenance of a Federal database of personally identifiable information on individuals receiving assistance under this Act, attending institutions receiving assistance under this Act, or otherwise involved in any studies or other collections of data under this Act, including a student unit record system, an education bar code system, or any other system that tracks individual students over time.”⁴

The legislative language goes on to list exemptions to this ban, which include systems required for the operation of

³ For a more detailed account of how the student unit record ban came to fruition, see *New America's report, College Blackout*.

⁴ 20 U.S. Code § 1015c. *Database of student information prohibited*. Retrieved from <http://www.gpo.gov/fdsys/pkg/PLAW-110publ315/pdf/PLAW-110publ315.pdf>.

programs (e.g., the National Student Loan Data System (NSLDS) and Central Processing System), existing federal student-level data collections, and state longitudinal data systems (SLDS). The exemption of SLDS is particularly detailed, allowing states to collect student-level data “related to enrollment, attendance, graduation and retention rates, student financial assistance, and graduate employment outcomes.”⁵ In fact, this legislative endorsement of SLDS systems, in addition to over \$600 million in grants made through the Statewide Longitudinal Data System Grant Program, prompted a rapid expansion in the development and implementation of SLDS.⁶ These systems serve as critical tools to inform educational policy and practice, and to date, almost every state has engaged in the development of a SLDS that includes postsecondary data.⁷

Recent Federal Legislation on Student-Level Data Collection

Since HEOA’s enactment in 2008, four pieces of legislation have proposed federal student-level data collection. These bills evolved over time, with an initial focus on linking SLDS, to the current bipartisan strategy of developing a federal student-level data system, as proposed in both the Senate and the House.

2012: Student Right to Know Before You Go 1.0

To address the lack of comprehensive data on postsecondary students, Senators Ron Wyden (D-OR) and Marco Rubio (R-FL) introduced the *Student Right to Know Before You Go Act of 2012* (S. 2098; SRTKBYG 1.0), which capitalized on the development and strengthening of state longitudinal data systems. Rep. Duncan Hunter (R-CA) introduced a companion bill (H.R. 4061) in the House. Both pieces of legislation require institutions that receive Title IV funding to report student-level data to the Integrated Postsecondary Education Data System (IPEDS) via a state longitudinal data system or “another administering entity.”⁸ The legislation specifies that no personally identifiable information shall be disclosed in the system and requires all student components of the IPEDS data collection to be populated and calculated using individual-level data. It also mandates a data governance system that assesses the “data quality, validity, and reliability” of state systems, a component that also would be incorporated into future iterations of this bill. SRTKBYG 1.0 was referred to the

5 Ibid.

6 LMI Institute (October 1, 2014). *Statewide Longitudinal Database System Grant Program*. Retrieved from http://www.lmiontheweb.org/Resources/briefs/Summary_Brief_-_SLDS.pdf.

7 As of 2014, 47 states, the District of Columbia, Puerto Rico, and the Virgin Islands have received at least one SLDS grant, and 43 states link K-12 and postsecondary data in their systems. Source: National Center for Education Statistics. *Grantee States*. Retrieved from <http://nces.ed.gov/Programs/SLDS/stateinfo.asp>; and *Data Quality Campaign*. Retrieved from <http://www.dataqualitycampaign.org/your-states-progress/10-state-actions?action=one>.

8 S. 2098 (a)(2)(B)(ii). Retrieved from <http://www.gpo.gov/fdsys/pkg/BILLS-112s2098is/pdf/BILLS-112s2098is.pdf>.

Senate Committee on Health, Education, Labor, and Pensions (HELP) before the 112th Congress ended its session, but did not receive comment from the committee.

2013: Student Right to Know Before You Go 2.0

In 2013, after President Obama announced the College Scorecard, Senators Wyden and Rubio, joined by Senator Mark Warner (D-VA), introduced the *Student Right to Know Before You Go Act of 2013* (S. 915), and Rep. Duncan Hunter (R-CA) introduced a companion bill in the House (H.R. 1937). SRTKBYG 2.0 took another tack to improving postsecondary data. Instead of stitching together state data systems, it struck the ban on new unit record systems in HEOA and established a federal student-level data collection.

Like the 2012 version of the Student Right to Know Before You Go Act, this legislation replaces student components of IPEDS with an individual-level data collection that allows the calculation and publication of metrics at the program and institution levels. The legislation streamlines reporting, allowing states to report student-level data on behalf of institutions, and specifies additional measures, such as rates of subsequent enrollment in postsecondary education, as well as earnings data populated from the Social Security Administration.⁹ This legislation was referred to the Senate HELP Committee, but was not taken up by the committee.

2014: Higher Education Affordability Act

The second draft of Senator Harkin’s *Higher Education Affordability Act* (HEAA, S. 2954), released in November 2014, also calls for the collection of student-level data at the federal level. This legislation does not strike the ban on a unit record system; rather, it creates an exception that requires federal student-level data to replace IPEDS surveys and data elements, and to populate additional, more robust, outcome measures. Senator Harkin’s bill borrows significant portions of SRTKBYG 2.0, in places providing more specificity. For example, instead of stating only “student components” of IPEDS be replaced with student-level data, HEAA specifically lists the surveys to be replaced by the new collection. It also specifies several new data measures to be calculated with the new student-level data, including outcome measures disaggregated by enrollment in remedial education, military/veteran status, and financial aid status.

9 Senator Ron Wyden. “The Student Right to Know Before You Go Act of 2013.” Retrieved from <http://www.wyden.senate.gov/download/?id=2c03a032-15bc-48b4-8f80-d3729103a6b&download=1>.

2015: Student Right to Know Before You Go 3.0

Senators Wyden, Rubio, and Warner introduced the third iteration of the Student Right to Know Before You Go Act (S. 1195) in the Senate in May 2015. A bipartisan group, including Rep. Duncan Hunter (R-CA), Rep. Mia Love (R-UT), Rep. John Carney Jr. (D-DE), Rep. Trey Gowdy (R-SC), Rep. Paul Ryan (R-WI), and Rep. Susan Davis (D-CA), co-sponsored a companion bill (H.R. 2518) in the House. This bill is very similar to its SRTKBYG 2.0 predecessor in replacing the student components of IPEDS with individual data collection and mandating specific disaggregates and additional measures, with a few notable differences. Compared with earlier versions, it includes more specific language about privacy, requiring the Secretary of Education to issue guidelines to institutions regarding the amendments for annual privacy notices required under the Family Educational Rights and Privacy Act (FERPA).

The legislation now explicitly defines personally-identifiable information (PII),¹⁰ lists allowable uses of student-level data, and increases the penalty for willful disclosure of PII to include imprisonment for up to five years and guilt of a felony. The bill describes how the data would be protected, prohibits the sale of data, and prohibits PII in the system from being used to take action against students. For researchers, the law would make available a non-PII dataset for studies or evaluations approved by the Institute of Education Sciences. This bill is currently awaiting committee consideration.

¹⁰ Personally Identifiable Information is defined as: student name, name of student's parents or other family members, address of student or family, personal identifier (Social Security number or biometric record), indirect identifiers (date of birth, place of birth, mother's maiden name), "other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty," or "information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates." This language is consistent with the regulatory definition of PII under FERPA (34 CFR § 99.3).

Detailed Comparison of Student-Level Data Collection Legislation

These four pieces of legislation represent an evolution of student-level data collection policies. To inform ongoing conversations about national student-level data collections, the tables below detail system purpose, Congressional support, governance and data privacy and security, data standards, data measures, and data disaggregates.

Stated Purpose of Proposed Data Systems

Each of these pieces of legislation expresses the interest of policymakers to begin collection of student-level data. The categories in this table are modeled after the purposes outlined in subparagraph (d) of HEAA, but many of these uses also appear in the SRTKBYG bills. The various iterations of this legislation state several purposes for the data collection including statistical reports and research studies, policy development, consumer information, institutional improvement, and replacing portions of IPEDS (see Table 1).

Congressional Support

Since the introduction of SRTKBYG 2.0, bipartisan, bicameral support to strengthen the national postsecondary data infrastructure has grown (see Table 2). Federal student-level data collection is now at the forefront of conversation as a means to replace components of IPEDS and provide higher quality data. Notably, every draft of the SRTKBYG has had both Republican and Democratic support; co-sponsors not only represent both parties, but also many regions of the United States.

Governance and Data Privacy and Security

The SRTKBYG legislation and HEAA share similar governance structures. In particular, SRTKBYG 2.0, 3.0, and HEAA are very similar, even providing the same timeframe within which data components in the system must be reviewed and subsequently made available publicly. SRTKBYG 3.0 adds more specific provisions designed to protect students and their data (see Table 3).

Table 1: Stated Purpose of Proposed Data Systems

	SRTKBYG 1.0 (S. 2098/H.R. 4061)	SRTKBYG 2.0 (S. 915/H.R. 1937)	HEAA (S. 2954)	SRTKBYG 3.0 (S. 1195/H.R. 2518)
Publication of statistical reports and studies or approved research reports or evaluations	✓		✓	✓
Management, policy planning, accountability, and/or oversight purposes within Department of Education	✓	✓	✓	
Consumer information	✓	✓	✓	✓
Providing information to institutions for improvement and evaluation purposes		✓	✓	✓
Fulfill IPEDS reporting requirements	✓	✓	✓	✓

Table 2: Congressional Support

Co-Sponsors	SRTKBYG 1.0 (S. 2098/H.R. 4061)	SRTKBYG 2.0 (S. 915/H.R. 1937)	HEAA (S. 2954)	SRTKBYG 3.0 (S. 1195/H.R. 2518)
SENATE				
Sen. Kirsten Gillibrand (D-NY)		✓		
Sen. Tom Harkin (D-IA)			✓	
Sen. Jeff Merkley (D-OR)		✓		
Sen. Marco Rubio (R-FL)	✓	✓		✓
Sen. Brian Schatz (D-HI)		✓		
Sen. Mark Warner (D-VA)		✓		✓
Sen. Ron Wyden (D-OR)	✓	✓		✓
HOUSE OF REPRESENTATIVES				
Rep. Robert Andrews (D-NJ)	✓	✓		
Rep. John Carney Jr. (D-DE)				✓
Rep. Susan Davis (D-CA)				✓
Rep. Trey Gowdy (R-SC)				✓
Rep. Duncan Hunter (R-CA)	✓	✓		✓
Rep. Mia Love (R-UT)				✓
Rep. Thomas Petri (R-WI)		✓		
Rep. Paul Ryan (R-WI)				✓

Table 3: Governance and Data Privacy and Security

	SRTKBYG 1.0 (S. 2098/H.R. 4061)	SRTKBYG 2.0 (S. 915/H.R. 1937)	HEAA (S. 2954)	SRTKBYG 3.0 (S. 1195/H.R. 2518)
Protects personally identifiable information by limiting access to the data system	✓	✓	✓	✓
Complies with FERPA	✓	✓	✓	✓
Allows states to report data for institutions	✓	✓	✓	✓
Establishes data audit and governance systems	✓	✓	✓	✓
Secretary reviews the categories of data collected every five years		✓	✓	✓
Provides public access to de-identified and/or aggregate data		✓	✓	✓
Prohibits use of unit record data for action against students		✓	✓	✓
Prohibits sale of student data to third parties to use for marketing			✓	✓
Specifies penalties for misuse of data		✓	✓	✓
Creates a public information website and hotline about the system			✓	
Defines personally identifiable information (PII)				✓
Privacy controls are reviewed periodically to ensure protection of data and limited access, use and disclosure				✓

Data Standards

Table 4 compares the data standards and reporting procedures of each proposed federal student-level data collection legislation. There is a notable disconnect between SRTKBYG 1.0 and SRTKBYG 2.0/3.0/HEAA in how data components are defined; SRTKBYG 1.0 requires the use of the Common Education Data Standards (CEDS), a voluntary initiative within the Department of Education that facilitates the exchange and comparison of data from various systems.¹¹ Mandating CEDS or another system of data comparability would be necessary in a federated system, where multiple databases are being stitched together. However, the CEDS mandate was dropped in subsequent legislation, as federal student-level data collection standards would define data elements for all participating institutions. To signal the importance of inclusive data components and community input, SRTKBYG 2.0, 3.0, and HEAA require the Department of Education to seek input from stakeholders in developing the system. Additionally, each piece of legislation requires coordination within the Department of Education and with other agencies, including the Social Security Administration and Departments of Defense and Veteran's Affairs. SRTKBYG 1.0 also includes language on linkages with the Workforce Innovation and Opportunity Act (WIOA) and Perkins Career and Technical Education Act systems. Leveraging existing data can alleviate the burden on institutions and create data commonality across legislation and agencies.

¹¹ Common Education Data Standards. What is CEDS. Retrieved from <https://ceds.ed.gov/whatsCEDS.aspx>.

Additional Data Measures Beyond Current IPEDS Collection

In addition to those already collected in IPEDS, each piece of legislation outlines additional data measures that must be collected and published via the student-level data collection system (see Table 5). Again, many similarities exist between the SRTKBYG 2.0, 3.0, and HEAA. While some of the boxes in this table are empty, that does not imply that the data would not be collected by a new student-level system—it only indicates that the measure was not explicitly outlined in the legislative language. In all four pieces of legislation, existing IPEDS elements would be populated with student-level data.

Disaggregated Outcome Data

The term “outcome data” in SRTKBYG 2.0, 3.0, and HEAA is broadly construed to mean any additional measures that are added to the IPEDS data collection by the student-level data legislation. While SRTKBYG 1.0 does not specify disaggregates, it allows the Secretary of Education to determine additional data elements necessary “to address alignment and adequate preparation for and success in postsecondary education (see Table 6).”¹²

¹² S.2098(a)(2)(D)(iii). Retrieved from <http://www.gpo.gov/fdsys/pkg/BILLS-112s2098is/pdf/BILLS-112s2098is.pdf>.

Table 4: Data Standards

	SRTKBYG1.0 (S. 2098/H.R. 4061)	SRTKBYG 2.0 (S. 915/H.R. 1937)	HEAA (S. 2954)	SRTKBYG 3.0 (S. 1195/H.R. 2518)
Specifies that information may be collected from other federal education and job training programs, such as Job Corps	✓	✓		
Requires use of the Common Education Data Standards (CEDS)	✓			
Involves stakeholders in developing calculation and reporting standards		✓	✓	✓
Calculates information at the program and institution level		✓	✓	✓
Reduces duplication in data collection	✓	✓	✓	✓

Table 5: Additional Data Measures Beyond Current IPEDS Collection

	SRTKBYG 1.0 (S. 2098/H.R. 4061)	SRTKBYG 2.0 (S. 915/H.R. 1937)	HEAA (S. 2954)	SRTKBYG 3.0 (S. 1195/H.R. 2518)
Degree/certificate-seeking status and level		Degree-seeking or certificate-seeking		Degree-seeking or certificate-seeking
Enrollment in remedial or developmental education	Rates of remedial enrollment by high school completion status	Participation in remedial education at that institution		Participation in remedial education at that institution
Financial aid information		Percent of students receiving federal grants and loans, state grants and loans, institutional grants and loans Average total federal debt of completers and non-completers	Dollar amount and number of students receiving federal, state, institutional, and private grants and loans Cumulative debt, disaggregated by undergraduate/graduate and completion status	Percent of students receiving federal grants and loans, state grants and loans, institutional grants and loans Average total federal debt of completers and non-completers
Credit accumulation	Rates of credit accumulation by high school completion			
Persistence rates			100%, 150%, 200% of normal time	
Transfer rates		Disaggregated by sector and level of receiving institution	100%, 150%, 200% of normal time; disaggregated by level of receiving institution	Disaggregated by sector and level of receiving institution
Completion rates	Disaggregated by high school completion status	Percentage of students who receive the degree level initially sought	100%, 150%, 200% of normal time Separate rates for masters, professional, and doctoral-level students	Percentage of students who receive the degree level initially sought
Subsequent enrollment		Only in higher levels of education	Any level; disaggregated by undergraduate/graduate	Only in higher levels of education
Earnings data (published at the program, institution, and state levels)	Average annual; disaggregated by degree received and employment sector	Median annual; 2, 6, 15 years after completion; disaggregated by credential received	2, 5, 10 years after completion; disaggregated by completion status and undergraduate/graduate level	Median annual; 2, 6, 15 years after completion; disaggregated by credential received
Loan repayment rates			Disaggregated by completion status and undergraduate/graduate level	

Table 6: Disaggregated Outcome Data

	SRTKBYG 1.0 (S. 2098/H.R. 4061)	SRTKBYG 2.0 (S. 915/H.R. 1937)	HEAA (S. 2954)	SRTKBYG 3.0 (S. 1195/H.R. 2518)
Disaggregates		Enrollment status: First-time, full-time; first-time, part-time; non-first-time, full-time; non-first-time, part-time Enrollment intensity: full-time only, part-time only, mixed enrollment Financial aid status: Pell receipt, Stafford Loan but no Pell receipt, and no Stafford Loan or Pell receipt Veteran status	Enrollment status: First-time, full-time at entry; first-time, part-time at entry; transfer, full-time at entry; transfer, part-time at entry Race and ethnicity Gender Degree/certificate-seeking status Enrollment in remedial education Disability status Financial aid status: Pell receipt, Stafford Loan but no Pell receipt, and no Stafford Loan or Pell receipt Age range Veteran or military status Undergraduate/graduate level	Enrollment status: First-time, full-time; first-time, part-time; non-first-time, full-time; non-first-time, part-time Enrollment intensity: full-time only, part-time only, mixed enrollment Financial aid status: Pell receipt, federal loan under part B or D but no Pell receipt, and no federal loan under part B or D or Pell receipt Veteran or military status

Next Steps

The introduction of this series of bills calling for federal student-level data collection signals that policymakers agree there is a dearth of data on the American postsecondary system, a pressing need to strengthen our data systems, and great potential for data to be used more effectively to serve students. Indeed, Chairman Lamar Alexander's (R-TN) white paper on consumer information included creation of a student-level data system as a possible solution for making "federal data useful and usable for consumers."¹³ As part of the Postsecondary Data Collaborative, 27 organizations voiced support for this type of system,¹⁴ and an additional three organizations supported it in separate comments.¹⁵ With both sides of the aisle and both chambers introducing bills that promote better public information about our higher education system through student-level data collection, it behooves the policy community to continue to engage in robust conversation about how our national data infrastructure can be improved to best serve students.

13 "Federal Postsecondary Data Transparency and Consumer Information," Senate Committee on Health, Education, Labor, and Pensions. Retrieved from: http://www.help.senate.gov/imo/media/Consumer_Information.pdf.

14 Postsecondary Data Collaborative letter to HELP Committee in response to consumer information white paper. Retrieved from: http://www.ihep.org/sites/default/files/uploads/postsecdata/docs/resources/postsecdata_collaborative_help_response.pdf.

15 "Common Themes in Response to the Senate HELP Committee White Paper on Consumer Information." Institute for Higher Education Policy. Retrieved from: http://www.ihep.org/sites/default/files/uploads/postsecdata/docs/data-at-work/common_themes_in_help_committee_responses_matrix_1.pdf.