

SENATE BILL NO. 118

INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO EDUCATION DATA; ESTABLISHING THE RIGHT TO BE FORGOTTEN; ENHANCING STUDENT DATA PRIVACY PROTECTIONS IN THE STATEWIDE K-12 STUDENT DATA SYSTEM AND IN THE WORK OF THE EDUCATION AND WORKFORCE DATA GOVERNING BOARD; PROHIBITING THE DIRECT USE IN WHOLE OR IN PART OF A STUDENT'S SOCIAL SECURITY NUMBER ~~IN ANY~~ AS A DISTRIBUTED UNIQUE IDENTIFIER USED TO LINK EDUCATION AND WORKFORCE DATA; PROVIDING ADDITIONAL RESPONSIBILITIES OF THE EDUCATION AND WORKFORCE DATA GOVERNING BOARD, THE SUPERINTENDENT OF PUBLIC INSTRUCTION, AND THE K-12 DATA TASK FORCE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 20-7-104, 20-7-105, 20-7-136, 20-7-137, AND 20-7-138, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Right to be forgotten -- verifiable request -- timeline -- rulemaking.

(1) A student or parent may request that the ~~superintendent of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD ESTABLISHED IN 20-7-138 OFFICE OF PUBLIC INSTRUCTION delete any education data on the student collected and stored in the ~~statewide K-12 data system~~ PURSUANT TO THE BOARD'S AUTHORITY IN THE K-12 STUDENT DATA SYSTEM by submitting a verifiable request pursuant to subsection (4).

(2) Except as provided in subsection (3), on receipt of a verifiable request submitted pursuant to this section, the ~~superintendent of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD OFFICE OF PUBLIC INSTRUCTION shall delete or have deleted FROM THE K-12 STUDENT DATA SYSTEM ~~from the statewide K-12 data system~~ any education data on that student COLLECTED AND STORED IN THE K-12 STUDENT DATA SYSTEM ~~collected and stored in the statewide K-12 data system~~ within the time provided for in subsection (6).

(3) The ~~superintendent of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD OFFICE OF PUBLIC INSTRUCTION is not required to comply with a verifiable request received under this section if

the office of public instruction needs to retain the education data to:

(a) comply with federal or state law for funding OR REPORTING purposes;

(b) perform a contract between another state agency or a third-party vendor; or

(c) comply with a court order or subpoena or any other lawful process.

(4) ~~The superintendent of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD
OFFICE OF PUBLIC INSTRUCTION shall designate and make available to students and parents in a form that is reasonably accessible at least two methods for submitting a verifiable request for a student's education data to be deleted as provided in this section, including:

(i) the office of public instruction's AND THE BOARD'S website through which the student or parent may submit the request;

(ii) a mailing address;

(iii) an e-mail address; or

(iv) another internet webpage or portal.

(b) ~~The superintendent of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD
OFFICE OF PUBLIC INSTRUCTION may not require a student or parent to create an account ~~with the office of public instruction~~ to submit a verifiable request.

(5) (a) Upon receiving a verifiable request under this section, ~~the office of public instruction~~
EDUCATION AND WORKFORCE DATA GOVERNING BOARD OFFICE OF PUBLIC INSTRUCTION shall promptly take steps to reasonably verify that:

(i) the student who is the subject of the request is a student about whom the office of public instruction has collected education data; and

(ii) the request is made by:

(A) the student; or

(B) a parent or legal guardian on behalf of the student if the student is a minor.

(b) ~~The office of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD OFFICE OF
PUBLIC INSTRUCTION may use any personal information collected from the student in connection with the verification of a request received under this section solely to verify the request.

(c) ~~The office of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD OFFICE OF

PUBLIC INSTRUCTION is not required to comply with the request if unable to verify a request received under this section.

(6) (a) Not later than 45 days after the date the ~~office of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD ~~OFFICE OF PUBLIC INSTRUCTION~~ receives a verifiable request under this section, the ~~office of public instruction~~ BOARD ~~OFFICE OF PUBLIC INSTRUCTION~~ shall delete the student's education data ~~FROM THE K-12 STUDENT DATA SYSTEM from the statewide K-12 data system~~ and disclose free of charge to the student or parent the contents of the deleted education data.

(b) The ~~office of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD ~~OFFICE OF PUBLIC INSTRUCTION~~ may extend the time in which to comply with subsection (6)(a) by an additional 45 days if reasonably necessary or by an additional 90 days after considering the number and complexity of verifiable requests received. The extension may be made only once. The ~~office of public instruction~~ BOARD ~~OFFICE OF PUBLIC INSTRUCTION~~ shall notify the student or parent of the extension and the reason for the delay within the period prescribed.

(7) The ~~office of public instruction~~ EDUCATION AND WORKFORCE DATA GOVERNING BOARD ~~OFFICE OF PUBLIC INSTRUCTION~~ shall:

(A) adopt rules ~~POLICIES PURSUANT TO THE BOARD'S AUTHORITY UNDER 20-7-138~~ RULES to implement the provisions of this section; AND

(B) REPORT ANNUALLY TO THE EDUCATION AND WORKFORCE DATA GOVERNING BOARD ON THE IMPLEMENTATION OF THIS SECTION, INCLUDING THE NUMBERS OF REQUESTS FOR AND DELETIONS OF EDUCATION DATA.

Section 2. Section 20-7-104, MCA, is amended to read:

"20-7-104. Transparency and public availability of public school performance data -- reporting - availability for timely use to improve instruction. (1) The office of public instruction shall establish, maintain, and continually improve a statewide K-12 data system that, at a minimum:

(a) includes data entry and intuitive reporting options that school districts can use to make timely decisions that improve instruction and impact student performance while creating a collaborative environment for parents, teachers, and students to work together in improving student performance. Options that the office of public instruction shall incorporate and make available for each school district must include data linkages to

1 provide for automated conversion of data from systems already in use by school districts or by the office of
2 public instruction that allow districts to collect, manage, and present local classroom assessment scores,
3 grades, attendance, and other data to assist in instructional intervention alongside the existing school
4 accountability and statewide student achievement results. The office of public instruction shall ensure that the
5 design of the system is enhanced to prioritize collaborative support of each student's needs by classroom
6 educators, administrators, and parents.

7 (b) eliminates redundant data collections and siloed data systems and facilitates data sharing
8 among the various divisions within the office of public instruction;

9 (c) facilitates matching of student-level K-12 data with higher education and workforce data; and

10 (d) protects each student's education records in compliance with the Family Educational Rights
11 and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99,
12 and any applicable state laws exceeding those requirements, including the right to be forgotten pursuant to
13 [section 1], and ensures this routine and ongoing compliance through performance of regular compliance
14 audits.

15 (2) The superintendent of public instruction shall ensure that any contracts governing databases,
16 assessments, or instructional supports that include education data or deidentified data and are outsourced to
17 private vendors include express provisions that safeguard data privacy and data security and include penalties
18 for noncompliance.

19 (2)(3) The superintendent of public instruction shall make available on the office of public instruction's
20 website an educational profile for each school district. A school district's educational profile must include, at a
21 minimum, the following elements:

22 (a) school district contact information and links to district websites, when available;

23 (b) testing results from statewide assessments required by the board of public education;

24 (c) accountability metrics required by federal law, including, if applicable, district and school-level
25 report cards;

26 (d) student enrollment and demographics by grade level; and

27 (e) graduation rates.

28 (3)(4) Each school district shall annually report to the office of public instruction in a manner

prescribed by the superintendent of public instruction the following district data for the preceding school year:

(a) the number and type of employee positions, including administrators;

(b) for the current employee in each position:

(i) the total amount of compensation paid to the employee by the district. The total amount of compensation includes but is not limited to the employee's base wage or salary, overtime pay, and other income from school-sanctioned extracurricular activities, including coaching and similar activities.

(ii) the certification held by and required of the employee;

(c) the student-teacher ratio by grade;

(d) (i) the amount, by category, spent by the district for operation and maintenance, stated in total cost and cost per square foot; and

(ii) the amount of principal and interest paid on bonds;

(e) the total district expenditures per student;

(f) the total budget for all funds;

(g) the total number of students enrolled and the average daily attendance;

(h) the total amount spent by the district on extracurricular activities and the total number of students that participated in extracurricular activities; and

(i) the number of students that entered the 9th grade in the school district but did not graduate from a high school in that district and for which the school district did not receive a transfer request. For reporting purposes, the students identified under this subsection ~~(3)(i)~~ (4)(i) are considered to have dropped out of school.

~~(4)(5)~~ (a) Each school district shall post on the school district's internet website a copy of every working agreement the district has with any organized labor organization and the district's costs, if any, associated with employee union representation, collective bargaining, and union grievance procedures and litigation resulting from union employee grievances.

(b) If a school district does not have an internet website, the school district shall publish the information required under subsection ~~(4)(a)~~ (5)(a) in printed form and provide a copy of the information upon request at the cost incurred by the school district for printing only.

~~(5)(6)~~ The superintendent of public instruction shall continually work in consultation with the K-12

1 data task force provided for in 20-7-105 to analyze the best options for a statewide K-12 data system meeting
2 the requirements of subsection (1). Emphasis must be placed on developing or purchasing and customizing a
3 statewide data system that ~~promotes and preserves community ownership and local control and that~~
4 incorporates innovative technologies available in the marketplace that may be in use and that are successfully
5 working in other states.

6 ~~(6)~~(7) In addition to the school district profiles under subsection ~~(2)~~ (3), the superintendent of public
7 instruction shall gather and make available on the office of public instruction's website longitudinal, actionable
8 data in at least the following areas:

- 9 (a) demographic information;
- 10 (b) enrollment data, including average daily attendance;
- 11 (c) statewide assessment data;
- 12 (d) untested students;
- 13 (e) graduation and dropout data; and
- 14 (f) school finance data.

15 ~~(7)~~(8) In accordance with 20-7-136 through 20-7-138 and except as otherwise provided and explicitly
16 directed in state law, the superintendent of public instruction may not share or restrict the sharing of student
17 ~~educational~~ education records beyond what is allowed or restricted under the Family Educational Rights and
18 Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99."

19
20 **Section 3.** Section 20-7-105, MCA, is amended to read:

21 **"20-7-105. K-12 data task force.** (1) There is a K-12 data task force established by the office of
22 public instruction.

23 (2) The K-12 data task force is composed of:

24 (a) The presiding officer and vice presiding officer of the senate and house standing committees
25 on education and the presiding officer and vice presiding officer of the joint subcommittee for education that
26 deals with appropriations or their designees;

27 (b) additional positions appointed by the majority vote of the presiding officers and vice presiding
28 officers referred to in subsection (2)(a), as follows:

- 1 (i) three elected school board trustees consisting of one each from a class 1, class 2, and class 3
2 school district;
- 3 (ii) three school administrators consisting of one each employed by a class 1, class 2, and class 3
4 school district;
- 5 (iii) three teachers consisting of one each employed by a class 1, class 2, and class 3 school
6 district;
- 7 (iv) three technology staff consisting of one each employed by a class 1, class 2, and class 3
8 school district;
- 9 (v) six parents, consisting of one parent of an elementary pupil currently enrolled in each of a class
10 1, class 2, and class 3 school district and one parent of a high school pupil currently enrolled in each of a class
11 1, class 2, and class 3 school district; and
- 12 (vi) three school district clerks, as provided in 20-3-325, consisting of one each employed by a
13 class 1, class 2, and class 3 school district.

14 (3) The K-12 data task force shall serve in an advisory capacity to the office of public instruction.
15 The task force shall:

16 (a) review, monitor, and provide input and guidance in enhancing the statewide K-12 data system
17 pursuant to 20-7-104; and

18 (b) pursuant to [section 4], provide input and guidance to enhance security and data privacy in the
19 statewide K-12 data system and to ensure parents and students are aware of their privacy rights.

20 (4) Unless otherwise provided by law, each member is entitled to be paid \$50 for each day in
21 which the member is engaged in the performance of duties under this section and is also entitled to be
22 reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the
23 performance of task force duties. Members who are full-time salaried officers or employees of this state or of a
24 political subdivision of this state are not entitled to be compensated for their service as members except when
25 they perform their task force duties outside their regular working hours or during hours charged against their
26 leave time, but those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501
27 through 2-18-503."

28

NEW SECTION. Section 4. Duties of K-12 data task force regarding student data privacy. (1)

The superintendent of public instruction shall continually inform and seek input from the K-12 data task force provided for in 20-7-105 regarding the data inventory and dictionary of data elements created by the education and workforce data governing board pursuant to 20-7-138, including but not limited to:

(a) education data that is required to be reported by state and federal education mandates; and

(b) education data that has been proposed for inclusion in the statewide K-12 data system by the board with a statement regarding the purpose or reason for the proposed collection.

(2) The superintendent of public instruction shall continually work in consultation with the K-12 data task force to:

(a) develop a detailed data security plan that includes:

(i) privacy compliance standards;

(ii) privacy and security audits;

(iii) breach planning, notification, and procedures; and

(iv) data retention and disposition policies;

(b) develop, publish, and make publicly available policies and procedures to comply with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and other relevant federal and state privacy laws; and

(c) provide annual notification to students and parents regarding their privacy rights under federal and state law, including the right to be forgotten under [section 1].

(3) Notifications of all rights, policies, and procedures under subsections (2)(b) and (2)(c) must be made available to the public through written publication and on the office of public instruction's website.

Section 5. Section 20-7-136, MCA, is amended to read:

"20-7-136. Legislative findings -- purpose. (1) The legislature finds that:

(a) the utilization of education and workforce data holds great promise for developing the full educational potential of Montanans and in maximizing the effectiveness of state investments in education and workforce systems; and

(b) a systems approach with shared governance between relevant agencies is the best way to

utilize education and workforce data while ensuring that the data is only used for appropriate purposes and in compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and all other relevant federal and state privacy laws, including the right to be forgotten pursuant to [section 1], and any other privacy measures required by the education and workforce data governing board.

(2) The purpose of 20-7-136 through 20-7-138 is to create a strong and transparent education and workforce data governing board with authority over the linkage of education and workforce data gathered and maintained by state agencies to ensure that the data is used to benefit the people of the state in a secure manner and only for appropriate purposes."

Section 6. Section 20-7-137, MCA, is amended to read:

"20-7-137. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the education and workforce data governing board established in 20-7-138.

(2) "Contributing agencies" means the following state agencies that gather and maintain education and workforce data, serve on the board, and are subject to the policies developed by the board pursuant to 20-7-138:

(a) the office of public instruction;

(b) the office of the commissioner of higher education; and

(c) the department of labor and industry.

(3) "Deidentified data" means education OR WORKFORCE data in which all information that identifies the parent or the student, including a state-assigned student identifier, has been removed WITH:

(A) ENOUGH DATA REMOVED OR OBSCURED SO THAT THE REMAINING INFORMATION DOES NOT IDENTIFY AN INDIVIDUAL AND THERE IS NO REASONABLE BASIS TO BELIEVE THAT THE INFORMATION CAN BE USED TO IDENTIFY AN INDIVIDUAL; AND

(B) A RE-IDENTIFICATION CODE.

~~(3)(4)~~ (a) "Education data" means data collected or reported at the student level that is included in a student's ~~educational~~ education record, including but not limited to:

~~(a)~~(i) career and college readiness indicators;

- (b)(ii) state and national assessment data;
- (e)(iii) course-taking and completion data in elementary, secondary, and postsecondary education;
- (d)(iv) elementary, secondary, and postsecondary grade point average data;
- (e)(v) 4-year, 5-year, and 6-year high school graduation rate data;
- (f)(vi) first to second year retainment data;
- (g)(vii) certificate, diploma, and degree attainment data;
- (h)(viii) college enrollment course-taking, credit, and contact hour accumulation data;
- (i)(ix) attendance and transferability data;
- (j)(x) special education data;
- (k)(xi) remediation data; and
- (l)(xii) demographics data.

(b) Unless the following are included in the student's education record, the term does not include:

- (i) juvenile delinquency records;
- (ii) criminal records;
- (iii) medical and health records;
- (iv) social security numbers; or
- (v) biometric information.

(4)(5) "Workforce data" means data related to an individual's workforce outcomes, including but not limited to, an individual's:

- (a) labor and workforce training program participation and completion information data;
- (b) wage information;
- (c) unemployment claim eligibility information;
- (d) employer information; and
- (e) demographics data."

Section 7. Section 20-7-138, MCA, is amended to read:

"20-7-138. Education and workforce data governing board -- membership -- duties. (1) There is an education and workforce data governing board. The board is administratively attached to the department of

administration as provided in 2-15-121.

(2) The board is comprised of five voting members:

(a) the director of the department of administration or the director's designee;

(b) the superintendent of public instruction or the superintendent's designee;

(c) the commissioner of higher education or the commissioner's designee;

(d) the commissioner of labor and industry or the commissioner's designee; and

(e) the presiding officer of the board of public education or the presiding officer's designee.

(3) The nonvoting members of the board are:

(a) the state chief information officer or the officer's designee;

(b) the legislative fiscal analyst or the analyst's designee;

(c) the legislative auditor or the auditor's designee; and

(d) the director of legislative services or the director's designee.

(4) The presiding officer of the board is the director of the department of administration or the director's designee.

(5) The board shall meet at least quarterly. The presiding officer may call special meetings whenever necessary. The presiding officer shall notify each member of the board of any special meeting before the fixed time for the special meeting. A majority of the board may petition the presiding officer to call a special meeting.

(6) Meetings of the board must be open to the public. Archived videos of the board's meetings must be made available to the public through the website.

(7) The board shall:

(a) develop and implement policies and procedures for the linking and sharing of education and workforce data among the contributing agencies to effectuate the purposes of 20-7-136 through 20-7-138, including policies and procedures describing:

(i) the specific types of ~~educational~~education and workforce data that must be shared by the contributing agencies;

(ii) the manner in which personally identifiable information is secured;

(iii) appropriate use; and

- 1 (iv) allowable access by contributing agencies and other entities.
- 2 (b) develop an education and workforce research agenda and data plan to:
- 3 (i) improve alignment across existing programs and systems;
- 4 (ii) support student success in K-12 education, higher education, and the workforce;
- 5 (iii) increase the efficiency and effectiveness of state education, training, workforce, and financial
- 6 aid programs; and
- 7 (iv) equip local and state policymakers with information about education and workforce
- 8 development;
- 9 (c) work with the contributing agencies to create, publish, and make publicly available a data
- 10 inventory and dictionary of data elements with definitions to ensure the integrity and quality of the data collected
- 11 and reported;
- 12 (d) facilitate using education and workforce data to inform decisionmaking by state and local
- 13 governments, educational agencies, institutions of higher education, and other education stakeholders in order
- 14 to maximize the operational efficiency of the state's education and workforce systems;
- 15 (e) provide technical and data analysis support to contributing agencies and other data users;
- 16 (f) develop and implement policies and procedures regarding data and research requests;
- 17 (g) develop and make available a model data-sharing agreement that allows for reciprocal sharing
- 18 of information between public schools, public, private, or tribal institutions of higher education, and state and
- 19 local workforce entities; and
- 20 (h) develop and implement policies:
- 21 (i) to ensure compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.
- 22 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and all other relevant federal and
- 23 state privacy laws;
- 24 (ii) to ensure compliance with the right to be forgotten pursuant to [section 1];
- 25 (iii) to prohibit the DIRECT use of a student's social security number in whole or in part as a unique
- 26 identifier by a contributing agency or a school district; and. THE POLICY MAY ALLOW THE USE OF A STUDENT'S
- 27 SOCIAL SECURITY NUMBER FOR THE PURPOSES OF GENERATING A MATCHING KEY TO LINK DATA.
- 28 (ii)(iv) to provide for additional privacy protections determined to be necessary by the board.

1 (8) The board may form committees, work groups, or advisory councils to accomplish the board's
2 purposes.

3 (9) The board shall, in accordance with 5-11-210, report to the education interim committee and
4 the education interim budget committee on the board's work."

5

6 NEW SECTION. **Section 8. Codification instruction -- directions to code commissioner.**

7 [Sections 1 and 4] are intended to be codified as an integral part of Title 20, chapter 1, and the provisions of
8 Title 20, chapter 1, apply to [sections 1 and 4].

9 (2) Sections 20-7-103, 20-7-104, 20-7-105, 20-7-136, 20-7-137, and 20-7-138 are intended to be
10 renumbered and codified with [sections 1 and 4] as a new part in Title 20, chapter 1.

11

12 NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2025.

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