1   SENATE BILL NO. 118

2   INTRODUCED BY D. ZOLNIKOV

3

4   A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO EDUCATION

5   DATA; ESTABLISHING THE RIGHT TO BE FORGOTTEN; ENHANCING STUDENT DATA PRIVACY

6   PROTECTIONS IN THE ~~STATEWIDE~~ K-12 STUDENT DATA SYSTEM AND IN THE WORK OF THE

7   EDUCATION AND WORKFORCE DATA GOVERNING BOARD; PROHIBITING THE DIRECT USE IN WHOLE

8   OR IN PART OF A STUDENT'S SOCIAL SECURITY NUMBER ~~IN ANY~~ AS A DISTRIBUTED UNIQUE

9   IDENTIFIER USED TO LINK EDUCATION AND WORKFORCE DATA; PROVIDING ADDITIONAL

10   RESPONSIBILITIES OF THE EDUCATION AND WORKFORCE DATA GOVERNING BOARD, THE

11   SUPERINTENDENT OF PUBLIC INSTRUCTION, AND THE K-12 DATA TASK FORCE; PROVIDING

12   DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 20-7-104, 20-7-105, 20-7-

13   136, 20-7-137, AND 20-7-138, MCA; AND PROVIDING AN EFFECTIVE DATE."

14

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

16

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

18   (1) A student or parent may request that the ~~superintendent of public instruction~~ ~~EDUCATION AND WORKFORCE~~

19   ~~DATA GOVERNING BOARD ESTABLISHED IN 20-7-138~~ OFFICE OF PUBLIC INSTRUCTION delete any education data on

20   the student collected and stored ~~in the statewide K-12 data system~~ ~~PURSUANT TO THE BOARD'S AUTHORITY~~ IN THE

21   K-12 STUDENT DATA SYSTEM by submitting a verifiable request pursuant to subsection (4).

22   (2)   Except as provided in subsection (3), on receipt of a verifiable request submitted pursuant to

23   this section, the ~~superintendent of public instruction~~ ~~EDUCATION AND WORKFORCE DATA GOVERNING BOARD~~ OFFICE

24   OF PUBLIC INSTRUCTION shall delete or have deleted FROM THE K-12 STUDENT DATA SYSTEM ~~from the statewide K-~~

25   ~~12 data system~~ any education data on that student COLLECTED AND STORED IN THE K-12 STUDENT DATA SYSTEM

26   ~~collected and stored in the statewide K-12 data system~~ within the time provided for in subsection (6).

27   (3)   The ~~superintendent of public instruction~~ ~~EDUCATION AND WORKFORCE DATA GOVERNING BOARD~~

Legislative Services Division

1   verification of a request received under this section solely to verify the request.

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

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

4   section.

5   (6)   (a) Not later than 45 days after the date the ~~office of public instruction~~ ~~EDUCATION AND~~

6   ~~WORKFORCE DATA GOVERNING BOARD~~ OFFICE OF PUBLIC INSTRUCTION receives a verifiable request under this

7   section, the ~~office of public instruction~~ ~~BOARD~~ OFFICE OF PUBLIC INSTRUCTION shall delete the student's education

8   data FROM THE K-12 STUDENT DATA SYSTEM ~~from the statewide K-12 data system~~ and disclose free of charge to

9   the student or parent the contents of the deleted education data.

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

11   PUBLIC INSTRUCTION may extend the time in which to comply with subsection (6)(a) by an additional 45 days if

12   reasonably necessary or by an additional 90 days after considering the number and complexity of verifiable

13   requests received. The extension may be made only once. The ~~office of public instruction~~ ~~BOARD~~ OFFICE OF

14   PUBLIC INSTRUCTION shall notify the student or parent of the extension and the reason for the delay within the

15   period prescribed.

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

17   PUBLIC INSTRUCTION shall:

18   (A)   adopt ~~rules~~ ~~POLICIES PURSUANT TO THE BOARD'S AUTHORITY UNDER 20-7-138~~ RULES to implement

19   the provisions of this section; AND

20   (B)   REPORT ANNUALLY TO THE EDUCATION AND WORKFORCE DATA GOVERNING BOARD ON THE

21   IMPLEMENTATION OF THIS SECTION, INCLUDING THE NUMBERS OF REQUESTS FOR AND DELETIONS OF EDUCATION DATA.

22

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

24   "**20-7-104.   Transparency and public availability of public school performance data -- reporting -**

25   **- availability for timely use to improve instruction.** (1) The office of public instruction shall establish,

26   maintain, and continually improve a statewide K-12 data system that, at a minimum:

27   (a)   includes data entry and intuitive reporting options that school districts can use to make timely

1   decisions that improve instruction and impact student performance while creating a collaborative environment

2   for parents, teachers, and students to work together in improving student performance. Options that the office

3   of public instruction shall incorporate and make available for each school district must include data linkages to

4   provide for automated conversion of data from systems already in use by school districts or by the office of

5   public instruction that allow districts to collect, manage, and present local classroom assessment scores,

6   grades, attendance, and other data to assist in instructional intervention alongside the existing school

7   accountability and statewide student achievement results. The office of public instruction shall ensure that the

8   design of the system is enhanced to prioritize collaborative support of each student's needs by classroom

9   educators, administrators, and parents.

10   (b)   eliminates redundant data collections and siloed data systems and facilitates data sharing

11   among the various divisions within the office of public instruction;

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

13   (d)   protects each student's education records in compliance with the Family Educational Rights

14   and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99,

15   and any applicable state laws exceeding those requirements, including the right to be forgotten pursuant to

16   [section 1], and ensures this routine and ongoing compliance through performance of regular compliance

17   audits.

18   ~~(2)   The superintendent of public instruction shall ensure that any contracts governing databases,~~

19   ~~assessments, or instructional supports that include education data or deidentified data and are outsourced to~~

20   ~~private vendors include express provisions that safeguard data privacy and data security and include penalties~~

21   ~~for noncompliance.~~

22   ~~(2)~~~~(3)~~(2)   The superintendent of public instruction shall make available on the office of public

23   instruction's website an educational profile for each school district. A school district's educational profile must

24   include, at a minimum, the following elements:

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

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

27   (c)   accountability metrics required by federal law, including, if applicable, district and school-level

1   report cards;

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

3   (e)   graduation rates.

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

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

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

7   (b)   for the current employee in each position:

8   (i)   the total amount of compensation paid to the employee by the district. The total amount of

9   compensation includes but is not limited to the employee's base wage or salary, overtime pay, and other

10 income from school-sanctioned extracurricular activities, including coaching and similar activities.

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

12 (c)   the student-teacher ratio by grade;

13 (d)   (i) the amount, by category, spent by the district for operation and maintenance, stated in total

14 cost and cost per square foot; and

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

16 (e)   the total district expenditures per student;

17 (f)   the total budget for all funds;

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

19 (h)   the total amount spent by the district on extracurricular activities and the total number of

20 students that participated in extracurricular activities; and

21 (i)   the number of students that entered the 9th grade in the school district but did not graduate

22 from a high school in that district and for which the school district did not receive a transfer request. For

23 reporting purposes, the students identified under this subsection (3)(i) (4)(i)(3)(i) are considered to have

24 dropped out of school.

25 (4)(5)(4)   (a) Each school district shall post on the school district's internet website a copy of

26 every working agreement the district has with any organized labor organization and the district's costs, if any,

27 associated with employee union representation, collective bargaining, and union grievance procedures and

1   litigation resulting from union employee grievances.

2   (b)   If a school district does not have an internet website, the school district shall publish the

3   information required under subsection (4)(a) (5)(a)(4)(a) in printed form and provide a copy of the information

4   upon request at the cost incurred by the school district for printing only.

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

6   K-12 data task force provided for in 20-7-105 to analyze the best options for a statewide K-12 data system

7   meeting the requirements of subsection (1). Emphasis must be placed on developing or purchasing and

8   customizing a statewide data system that promotes and preserves community ownership and local control and

9   that incorporates innovative technologies available in the marketplace that may be in use and that are

10   successfully working in other states.

11   (6)(7)(6)   In addition to the school district profiles under subsection (2) (3) (2), the superintendent

12   of public instruction shall gather and make available on the office of public instruction's website longitudinal,

13   actionable data in at least the following areas:

14   (a)   demographic information;

15   (b)   enrollment data, including average daily attendance;

16   (c)   statewide assessment data;

17   (d)   untested students;

18   (e)   graduation and dropout data; and

19   (f)   school finance data.

20   (7)(8)(7)   In accordance with 20-7-136 through 20-7-138 and except as otherwise provided and

21   explicitly directed in state law, the superintendent of public instruction may not share or restrict the sharing of

22   student educational education records beyond what is allowed or restricted under the Family Educational

23   Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR,

24   part 99."

25

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

27   "**20-7-105.   K-12 data task force.** (1) There is a K-12 data task force established by the office of