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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 DATA SYSTEM AND IN THE WORK OF THE EDUCATION AND WORKFORCE DATA GOVERNING BOARD; PROHIBITING THE USE IN WHOLE OR IN PART OF A STUDENT'S SOCIAL SECURITY NUMBER IN ANY UNIQUE IDENTIFIER USED TO LINK EDUCATION AND WORKFORCE DATA; PROVIDING ADDITIONAL RESPONSIBILITIES OF 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 delete any education data on the student collected and stored in the statewide K-12 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 shall delete or have deleted from the statewide K-12 data system any education data on that student collected and stored in the statewide K-12 data system within the time provided for in subsection (6).

(3) The superintendent 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 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.

1 (4) (a) The superintendent of public instruction shall designate and make available to students and
2 parents in a form that is reasonably accessible at least two methods for submitting a verifiable request for a
3 student's education data to be deleted as provided in this section, including:

4 (i) the office of public instruction's website through which the student or parent may submit the
5 request;

6 (ii) a mailing address;

7 (iii) an e-mail address; or

8 (iv) another internet webpage or portal.

9 (b) The superintendent of public instruction may not require a student or parent to create an
10 account with the office of public instruction to submit a verifiable request.

11 (5) (a) Upon receiving a verifiable request under this section, the office of public instruction shall
12 promptly take steps to reasonably verify that:

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

15 (ii) the request is made by:

16 (A) the student; or

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

18 (b) The office of public instruction may use any personal information collected from the student in
19 connection with the verification of a request received under this section solely to verify the request.

20 (c) The office of public instruction is not required to comply with the request if unable to verify a
21 request received under this section.

22 (6) (a) Not later than 45 days after the date the office of public instruction receives a verifiable
23 request under this section, the office of public instruction shall delete the student's education data from the
24 statewide K-12 data system and disclose free of charge to the student or parent the contents of the deleted
25 education data.

26 (b) The office of public instruction may extend the time in which to comply with subsection (6)(a) by
27 an additional 45 days if reasonably necessary or by an additional 90 days after considering the number
28 and complexity of verifiable requests received. The extension may be made only once. The office of public

1 instruction shall notify the student or parent of the extension and the reason for the delay within the period
2 prescribed.

3 (7) The office of public instruction shall adopt rules to implement the provisions of this section.
4

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

6 **"20-7-104. Transparency and public availability of public school performance data -- reporting -**

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

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

9 (a) includes data entry and intuitive reporting options that school districts can use to make timely
10 decisions that improve instruction and impact student performance while creating a collaborative environment
11 for parents, teachers, and students to work together in improving student performance. Options that the office
12 of public instruction shall incorporate and make available for each school district must include data linkages to
13 provide for automated conversion of data from systems already in use by school districts or by the office of
14 public instruction that allow districts to collect, manage, and present local classroom assessment scores,
15 grades, attendance, and other data to assist in instructional intervention alongside the existing school
16 accountability and statewide student achievement results. The office of public instruction shall ensure that the
17 design of the system is enhanced to prioritize collaborative support of each student's needs by classroom
18 educators, administrators, and parents.

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

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

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

27 (2) The superintendent of public instruction shall ensure that any contracts governing databases,
28 assessments, or instructional supports that include education data or deidentified data and are outsourced to

1 private vendors include express provisions that safeguard data privacy and data security and include penalties
2 for noncompliance.

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

- 6 (a) school district contact information and links to district websites, when available;
- 7 (b) testing results from statewide assessments required by the board of public education;
- 8 (c) accountability metrics required by federal law, including, if applicable, district and school-level
9 report cards;
- 10 (d) student enrollment and demographics by grade level; and
- 11 (e) graduation rates.

12 ~~(3)~~(4) Each school district shall annually report to the office of public instruction in a manner
13 prescribed by the superintendent of public instruction the following district data for the preceding school year:

- 14 (a) the number and type of employee positions, including administrators;
- 15 (b) for the current employee in each position:
 - 16 (i) the total amount of compensation paid to the employee by the district. The total amount of
17 compensation includes but is not limited to the employee's base wage or salary, overtime pay, and other
18 income from school-sanctioned extracurricular activities, including coaching and similar activities.
 - 19 (ii) the certification held by and required of the employee;
- 20 (c) the student-teacher ratio by grade;
- 21 (d) (i) the amount, by category, spent by the district for operation and maintenance, stated in total
22 cost and cost per square foot; and
 - 23 (ii) the amount of principal and interest paid on bonds;
- 24 (e) the total district expenditures per student;
- 25 (f) the total budget for all funds;
- 26 (g) the total number of students enrolled and the average daily attendance;
- 27 (h) the total amount spent by the district on extracurricular activities and the total number of
28 students that participated in extracurricular activities; and

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

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

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

12 ~~(5)(6)~~ The superintendent of public instruction shall continually work in consultation with the K-12
13 data task force provided for in 20-7-105 to analyze the best options for a statewide K-12 data system meeting
14 the requirements of subsection (1). Emphasis must be placed on developing or purchasing and customizing a
15 statewide data system that ~~promotes and preserves community ownership and local control and that~~
16 incorporates innovative technologies available in the marketplace that may be in use and that are successfully
17 working in other states.

18 ~~(6)(7)~~ In addition to the school district profiles under subsection ~~(2)~~ (3), the superintendent of public
19 instruction shall gather and make available on the office of public instruction's website longitudinal, actionable
20 data in at least the following areas:

- 21 (a) demographic information;
- 22 (b) enrollment data, including average daily attendance;
- 23 (c) statewide assessment data;
- 24 (d) untested students;
- 25 (e) graduation and dropout data; and
- 26 (f) school finance data.

27 ~~(7)(8)~~ In accordance with 20-7-136 through 20-7-138 and except as otherwise provided and explicitly
28 directed in state law, the superintendent of public instruction may not share or restrict the sharing of student

1 educational education records beyond what is allowed or restricted under the Family Educational Rights and
2 Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99."

3

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

5 **"20-7-105. K-12 data task force.** (1) There is a K-12 data task force established by the office of
6 public instruction.

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

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

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

13 (i) three elected school board trustees consisting of one each from a class 1, class 2, and class 3
14 school district;

15 (ii) three school administrators consisting of one each employed by a class 1, class 2, and class 3
16 school district;

17 (iii) three teachers consisting of one each employed by a class 1, class 2, and class 3 school
18 district;

19 (iv) three technology staff consisting of one each employed by a class 1, class 2, and class 3
20 school district;

21 (v) six parents, consisting of one parent of an elementary pupil currently enrolled in each of a class
22 1, class 2, and class 3 school district and one parent of a high school pupil currently enrolled in each of a class
23 1, class 2, and class 3 school district; and

24 (vi) three school district clerks, as provided in 20-3-325, consisting of one each employed by a
25 class 1, class 2, and class 3 school district.

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

28 (a) review, monitor, and provide input and guidance in enhancing the statewide K-12 data system

1 pursuant to 20-7-104; and

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

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

12

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

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

- 17 (a) education data that is required to be reported by state and federal education mandates; and
- 18 (b) education data that has been proposed for inclusion in the statewide K-12 data system by the
19 board with a statement regarding the purpose or reason for the proposed collection.

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

- 22 (a) develop a detailed data security plan that includes:
 - 23 (i) privacy compliance standards;
 - 24 (ii) privacy and security audits;
 - 25 (iii) breach planning, notification, and procedures; and
 - 26 (iv) data retention and disposition policies;
- 27 (b) develop, publish, and make publicly available policies and procedures to comply with the
28 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing

1 regulations at 34 CFR, part 99, and other relevant federal and state privacy laws; and

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

4 (3) Notifications of all rights, policies, and procedures under subsections (2)(b) and (2)(c) must be
5 made available to the public through written publication and on the office of public instruction's website.
6

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

8 **"20-7-136. Legislative findings -- purpose.** (1) The legislature finds that:

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

12 (b) a systems approach with shared governance between relevant agencies is the best way to
13 utilize education and workforce data while ensuring that the data is only used for appropriate purposes and in
14 compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its
15 implementing regulations at 34 CFR, part 99, and all other relevant federal and state privacy laws, including the
16 right to be forgotten pursuant to [section 1], and any other privacy measures required by the education and
17 workforce data governing board.

18 (2) The purpose of 20-7-136 through 20-7-138 is to create a strong and transparent education and
19 workforce data governing board with authority over the linkage of education and workforce data gathered and
20 maintained by state agencies to ensure that the data is used to benefit the people of the state in a secure
21 manner and only for appropriate purposes."
22

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

24 **"20-7-137. Definitions.** As used in this part, the following definitions apply:

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

26 (2) "Contributing agencies" means the following state agencies that gather and maintain education
27 and workforce data, serve on the board, and are subject to the policies developed by the board pursuant to 20-
28 7-138:

- 1 (a) the office of public instruction;
 2 (b) the office of the commissioner of higher education; and
 3 (c) the department of labor and industry.

4 ~~(3)~~ "Deidentified data" means education data in which all information that identifies the parent or
 5 the student, including a state-assigned student identifier, has been removed.

6 ~~(3)(4)~~ (a) "Education data" means data collected or reported at the student level that is included in a
 7 student's educational-~~education~~ record, including but not limited to:

- 8 ~~(a)~~(i) career and college readiness indicators;
 9 ~~(b)~~(ii) state and national assessment data;
 10 ~~(c)~~(iii) course-taking and completion data in elementary, secondary, and postsecondary education;
 11 ~~(d)~~(iv) elementary, secondary, and postsecondary grade point average data;
 12 ~~(e)~~(v) 4-year, 5-year, and 6-year high school graduation rate data;
 13 ~~(f)~~(vi) first to second year retainment data;
 14 ~~(g)~~(vii) certificate, diploma, and degree attainment data;
 15 ~~(h)~~(viii) college enrollment course-taking, credit, and contact hour accumulation data;
 16 ~~(i)~~(ix) attendance and transferability data;
 17 ~~(j)~~(x) special education data;
 18 ~~(k)~~(xi) remediation data; and
 19 ~~(l)~~(xii) demographics data.

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

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

26 ~~(4)(5)~~ "Workforce data" means data related to an individual's workforce outcomes, including but not
 27 limited to, an individual's:

- 28 (a) labor and workforce training program participation and completion information data;

- 1 (b) wage information;
- 2 (c) unemployment claim eligibility information;
- 3 (d) employer information; and
- 4 (e) demographics data."

5

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

7 **"20-7-138. Education and workforce data governing board -- membership -- duties.** (1) There is
 8 an education and workforce data governing board. The board is administratively attached to the department of
 9 administration as provided in 2-15-121.

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

- 11 (a) the director of the department of administration or the director's designee;
- 12 (b) the superintendent of public instruction or the superintendent's designee;
- 13 (c) the commissioner of higher education or the commissioner's designee;
- 14 (d) the commissioner of labor and industry or the commissioner's designee; and
- 15 (e) the presiding officer of the board of public education or the presiding officer's designee.

16 (3) The nonvoting members of the board are:

- 17 (a) the state chief information officer or the officer's designee;
- 18 (b) the legislative fiscal analyst or the analyst's designee;
- 19 (c) the legislative auditor or the auditor's designee; and
- 20 (d) the director of legislative services or the director's designee.

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

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

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

1 (7) The board shall:

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

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

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

8 (iii) appropriate use; and

9 (iv) allowable access by contributing agencies and other entities.

10 (b) develop an education and workforce research agenda and data plan to:

11 (i) improve alignment across existing programs and systems;

12 (ii) support student success in K-12 education, higher education, and the workforce;

13 (iii) increase the efficiency and effectiveness of state education, training, workforce, and financial
14 aid programs; and

15 (iv) equip local and state policymakers with information about education and workforce
16 development;

17 (c) work with the contributing agencies to create, publish, and make publicly available a data
18 inventory and dictionary of data elements with definitions to ensure the integrity and quality of the data collected
19 and reported;

20 (d) facilitate using education and workforce data to inform decisionmaking by state and local
21 governments, educational agencies, institutions of higher education, and other education stakeholders in order
22 to maximize the operational efficiency of the state's education and workforce systems;

23 (e) provide technical and data analysis support to contributing agencies and other data users;

24 (f) develop and implement policies and procedures regarding data and research requests;

25 (g) develop and make available a model data-sharing agreement that allows for reciprocal sharing
26 of information between public schools, public, private, or tribal institutions of higher education, and state and
27 local workforce entities; and

28 (h) develop and implement policies:

1 (i) to ensure compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.
 2 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and all other relevant federal and
 3 state privacy laws;

4 (ii) to ensure compliance with the right to be forgotten pursuant to [section 1];

5 (iii) to prohibit the use of a student's social security number in whole or in part as a unique identifier
 6 by a contributing agency or a school district; and

7 (ii)(iv) to provide for additional privacy protections determined to be necessary by the board.

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

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

12

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

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

16 (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
 17 renumbered and codified with [sections 1 and 4] as a new part in Title 20, chapter 1.

18

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

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- END -