

HOUSE BILL NO. 949

INTRODUCED BY D. BEDEY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO DATA GOVERNANCE; PROVIDING LEGISLATIVE FINDINGS AND A PURPOSE; PROVIDING DEFINITIONS; ESTABLISHING THE EDUCATION AND WORKFORCE DATA GOVERNING BOARD; PROVIDING DUTIES FOR THE BOARD; ESTABLISHING REPORTING REQUIREMENTS; MODIFYING THE REQUIREMENTS OF THE STATEWIDE K-12 DATA SYSTEM AND THE REQUIREMENTS FOR INFORMATION POSTED BY SCHOOL DISTRICTS; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-7-104, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. 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, and any other privacy measures required by the education and workforce data governing board.

(2) The purpose of [sections 1 through 3] 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.

NEW SECTION. Section 2. Definitions. As used in this part, the following definitions apply:

- 1 (1) "Board" means the education and workforce data governing board established in [section 3].
- 2 (2) "Contributing agencies" means the following state agencies that gather and maintain education
3 and workforce data, serve on the board, and are subject to the policies developed by the board pursuant to
4 [section 3]:
- 5 (a) the office of public instruction;
 - 6 (b) the office of the commissioner of higher education; and
 - 7 (c) the department of labor and industry.
- 8 (3) "Education data" means data collected or reported at the student level that is included in a
9 student's educational record, including but not limited to:
- 10 (a) career and college readiness indicators;
 - 11 (b) state and national assessment data;
 - 12 (c) course-taking and completion data in elementary, secondary, and postsecondary education;
 - 13 (d) elementary, secondary, and postsecondary grade point average data;
 - 14 (e) 4-year, 5-year, and 6-year high school graduation rate data;
 - 15 (f) first to second year retainment data;
 - 16 (g) certificate, diploma, and degree attainment data;
 - 17 (h) college enrollment course-taking, credit, and contact hour accumulation data;
 - 18 (i) attendance and transferability data;
 - 19 (j) special education data;
 - 20 (k) remediation data; and
 - 21 (l) demographics data.
- 22 (4) "Workforce data" means data related to an individual's workforce outcomes, including but not
23 limited to, an individual's:
- 24 (a) labor and workforce training program participation and completion information data;
 - 25 (b) wage information;
 - 26 (c) unemployment claim eligibility information;
 - 27 (d) employer information; and
 - 28 (e) demographics data.

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NEW SECTION. Section 3. 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 ~~include the following~~ 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 [sections 1 through 3], including policies and procedures describing:
 - (i) the specific types of educational and workforce data that must be shared by the contributing

- 1 agencies;
- 2 (ii) the manner in which personally identifiable information is secured;
- 3 (iii) appropriate use; and
- 4 (iv) allowable access by contributing agencies and other entities.
- 5 (b) develop an education and workforce research agenda and data plan to:
- 6 (i) improve alignment across existing programs and systems;
- 7 (ii) support student success in K-12 education, higher education, and the workforce;
- 8 (iii) increase the efficiency and effectiveness of state education, training, workforce, and financial
- 9 aid programs; and
- 10 (iv) equip local and state policymakers with information about education and workforce
- 11 development;
- 12 (c) work with the contributing agencies to create, publish, and make publicly available a data
- 13 inventory and dictionary of data elements with definitions to ensure the integrity and quality of the data collected
- 14 and reported;
- 15 (d) facilitate using education and workforce data to inform decisionmaking by state and local
- 16 governments, educational agencies, institutions of higher education, and other education stakeholders in order
- 17 to maximize the operational efficiency of the state's education and workforce systems;
- 18 (e) provide technical and data analysis support to contributing agencies and other data users;
- 19 (f) develop and implement policies and procedures regarding data and research requests;
- 20 (g) develop and make available a model data-sharing agreement that allows for reciprocal sharing
- 21 of information between public schools, public, private, or tribal institutions of higher education, and state and
- 22 local workforce entities; and
- 23 (h) develop and implement policies;
- 24 (i) _____ to ensure compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.
- 25 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and all other relevant federal and
- 26 state privacy laws; AND
- 27 (ii) _____ TO PROVIDE FOR ADDITIONAL PRIVACY PROTECTIONS DETERMINED TO BE NECESSARY BY THE BOARD.
- 28 (8) The board may form committees, work groups, or advisory councils to accomplish the board's

1 purposes.

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

4

5 **Section 4.** 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's INSTRUCTION SHALL
8 ESTABLISH, MAINTAIN, AND CONTINUALLY IMPROVE A statewide K-12 data system ~~must that~~, at a minimum:

9 (a) include ~~includes~~ data entry and intuitive reporting options that school districts can use to make
10 timely decisions that improve instruction and impact student performance while creating a collaborative
11 environment for parents, teachers, and students to work together in improving student performance. Options
12 that the office of public instruction shall incorporate and make available for each school district must include
13 data linkages to provide for automated conversion of data from systems already in use by school districts or by
14 the office of public instruction that allow districts to collect, manage, and present local classroom assessment
15 scores, 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 (b)(d) display a publicly available educational data profile for each school district that protects each
23 student's education records in compliance with the Family Educational Rights and Privacy Act of 1974, 20
24 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99 and any applicable state laws
25 exceeding those requirements.

26 (2) ~~Subject to subsection (1)(b), each~~ The superintendent of public instruction shall make available
27 on the office of public instruction's website an educational profile for each school district. A school district's
28 educational profile must include, at a minimum, the following elements:

- 1 (a) school district contact information and links to district websites, when available;
- 2 (b) ~~state criterion-referenced~~ testing results from statewide assessments required by the board of
3 public education;
- 4 (c) ~~program and course offerings~~ accountability metrics required by federal law, including, if
5 applicable, district and school-level report cards;
- 6 (d) student enrollment and demographics by grade level; and
- 7 (e) graduation rates.
- 8 (3) Each school district shall annually report to the office of public instruction ~~and publish and post~~
9 ~~on the school district's internet website~~ in a manner prescribed by the superintendent of public instruction the
10 following district data for the preceding school year:
- 11 (a) the number and type of employee positions, including administrators;
- 12 (b) for the current employee in each position:
- 13 (i) the total amount of compensation paid to the employee by the district. The total amount of
14 compensation includes but is not limited to the employee's base wage or salary, overtime pay, and other
15 income from school-sanctioned extracurricular activities, including coaching and similar activities.
- 16 (ii) the certification held by and required of the employee;
- 17 (c) the student-teacher ratio by grade;
- 18 (d) (i) the amount, by category, spent by the district for operation and maintenance, stated in total
19 cost and cost per square foot; and
- 20 (ii) the amount of principal and interest paid on bonds;
- 21 (e) the total district expenditures per student;
- 22 (f) the total budget for all funds;
- 23 (g) the total number of students enrolled and the average daily attendance;
- 24 (h) the total amount spent by the district on extracurricular activities and the total number of
25 students that participated in extracurricular activities; and
- 26 (i) the number of students that entered the 9th grade in the school district but did not graduate
27 from a high school in that district and for which the school district did not receive a transfer request. For
28 reporting purposes, the students identified under this subsection (3)(i) are considered to have dropped out of

1 school.

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

6 ~~(5)(b)~~ If a school district does not have an internet website, the school district shall publish the
7 information required under ~~subsections (2) and (3)~~ subsection (4)(a) in printed form and provide a copy of the
8 information upon request at the cost incurred by the school district for printing only.

9 ~~(6)(5)~~ The superintendent of public instruction shall continually work in consultation with the K-12
10 data task force provided for in 20-7-105 to analyze the best options for a statewide K-12 data system ~~that will~~
11 ~~best enhance the ability of school districts to use data for the purposes identified in this section~~ meeting the
12 requirements of subsection (1). Emphasis must be placed on developing or purchasing and customizing a
13 statewide data system that promotes and preserves community ownership and local control and that
14 incorporates innovative technologies available in the marketplace that may be in use and that are successfully
15 working in other states. ~~The office of public instruction and the K-12 data task force shall collaborate to enhance~~
16 ~~the statewide data system to support:~~

17 ~~(a) the needs of school districts in using data to improve instruction and student performance;~~

18 ~~(b) the collection of data from schools through a process that provides for automated conversion of~~
19 ~~data from systems already in use by school districts or the office of public instruction and that resolves the~~
20 ~~repetition of data entry and redundancy of data requested that has been characteristic of the data system in the~~
21 ~~past and that otherwise reduces the diversion of district staff time away from instruction and supervision;~~

22 ~~(c) increased use of data from the centralized system by various functions within the office of public~~
23 ~~instruction; and~~

24 ~~(d) transparency in reporting to schools, school districts, communities, and the public.~~

25 ~~(7)(6)~~ The In addition to the school district profiles under subsection (2), the superintendent of public
26 instruction shall gather, ~~maintain, and distribute~~ and make available on the office of public instruction's website
27 longitudinal, actionable data in at least the following areas:

28 (a) ~~statewide student identifier~~ demographic information;

- 1 (b) ~~student-level~~ enrollment data, including average daily attendance;
- 2 (c) ~~student-level~~ statewide assessment data;
- 3 (d) ~~information on~~ untested students;
- 4 (e) ~~student-level~~ graduation and dropout data; and
- 5 (f) school finance data.
- 6 ~~(f) ability to match student-level K-12 data with higher education and workforce data;~~
- 7 ~~(g) a statewide data audit system;~~
- 8 ~~(h) a system to track student achievement with a direct teacher-to-student match to help track, report,~~
- 9 ~~and create opportunities for improved individual student performance;~~
- 10 (i) ~~student-level course completion data, including transcripts, to assess career and college readiness;~~
- 11 ~~and~~
- 12 (j) ~~student-level ACT results, scholastic achievement test results, and advanced placement exam~~
- 13 ~~data.~~
- 14 ~~(8) The superintendent of public instruction shall emphasize the creation of and distribution of~~
- 15 ~~individual diagnostic data for each student in a manner that is timely and protects the privacy rights of students~~
- 16 ~~and families as they relate to education so that school districts may use the data to support timely academic~~
- 17 ~~intervention as needed and to otherwise improve the academic achievement of the students of each school~~
- 18 ~~district.~~
- 19 ~~(9) (a) In addition to the data privacy protections in subsection (1)(b) and except as provided in~~
- 20 ~~subsections (9)(b) and (9)(c), the superintendent of public instruction may provide personally identifiable~~
- 21 ~~information gathered, maintained, and distributed pursuant to subsection (7) and any other personally~~
- 22 ~~identifiable data only to the office of public instruction, the school district where the student is or has been~~
- 23 ~~enrolled, the parent, and the student. Except as provided in subsections (9)(b) and (9)(c), the superintendent of~~
- 24 ~~public instruction may not share, sell, or otherwise release personally identifiable information to any for-profit~~
- 25 ~~business, nonprofit organization, public-private partnership, governmental unit, or other entity unless the~~
- 26 ~~student's parent has provided written consent specifying the data to be released, the reason for the release,~~
- 27 ~~and the recipient to whom the data may be released.~~
- 28 (b) ~~The superintendent may release student-level information to the commissioner of higher education~~

1 and the department of labor and industry for the sole purpose of research directed at ensuring that Montana's
2 K-12 education system meets the expectations of the Montana university system and the workforce needs of
3 the state. The superintendent shall determine the necessity of research requests from the commissioner and
4 the department of labor and industry and may only release student-level information after entering agreements
5 with the commissioner and the department to ensure student privacy. An agreement under this subsection
6 ~~(9)(b) must:~~

7 (i) ~~expire no later than 18 months after the agreement is made; and~~

8 (ii) ~~require the commissioner and the department to destroy and retain no part of student-level~~
9 ~~information upon completion of the research outlined in the agreement.~~

10 (c) ~~If the superintendent of public instruction offers a statewide assessment that also serves as a~~
11 ~~college entrance exam, a student's personally identifiable information may be released with the consent of the~~
12 ~~student to accredited postsecondary education institutions, testing agencies under contract with a state entity to~~
13 ~~provide a college entrance exam to students, or scholarship organizations. A scholarship organization may use~~
14 ~~information released under this subsection (9)(c) only for the purpose of scholarship opportunities. The~~
15 ~~legislature intends that the release of information pursuant to this subsection (9)(c) is for the sole purpose of~~
16 ~~increasing access to higher education opportunities for students.~~

17 ~~(10) On or before June 30, 2013, the superintendent of public instruction shall begin presenting~~
18 ~~longitudinal data on academic achievement and shall develop plans for a measurement of growth for the~~
19 ~~statewide student assessment required by the board of public education.~~

20 (7) In accordance with [sections 1 through 3] and except as otherwise provided and explicitly
21 directed in state law, the superintendent of public instruction may not share or restrict the sharing of student
22 educational records beyond what is allowed or restricted under the Family Educational Rights and Privacy Act
23 of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99."

24
25 **NEW SECTION. Section 5. Appropriation.** (1) There is appropriated \$100,000 \$50,000 from the
26 general fund to the department of administration for each year of the biennium beginning July 1, 2023, for the
27 purposes of [sections 1 through 3].

28 (2) The legislature intends that the appropriation in this section be considered part of the ongoing

1 base for the next legislative session.

2
3 NEW SECTION. Section 6. Transition. Data sharing agreements between the office of public
4 instruction, the department of labor and industry, and the commissioner of higher education made under the
5 authority of 20-7-104(9) prior to [the effective date of this act] remain in effect until the earlier of the expiration
6 date of the agreement or the adoption by the education and workforce data governing board of policies
7 governing the linkage and sharing of education and workforce data relevant to the agreement. The legislature
8 intends that the policies of the education and workforce data governing board replace the need for ad hoc data
9 sharing agreements to the greatest extent possible.

10
11 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 3] are intended to be
12 codified as an integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply
13 to [sections 1 through 3].

14
15 COORDINATION SECTION. SECTION 8. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 480
16 AND [THIS ACT] ARE PASSED AND APPROVED AND BOTH CONTAIN A SECTION AMENDING 20-7-104, THEN SENATE BILL
17 NO. 480 IS VOID.

18
19 NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2023.

20 - END -