Follow-up response from Superintendent Arntzen:

As requested by Chair Bedey in his letter from December 7th, which was in response my e-mail from December 6th, below in italics are my responses to the questions he posed:

1. You assert that "House Bill 949 amended § 20-7-104, MCA, to narrow the amount and types of data that the Office of Public Instruction (OPI) may gather and release." This comes as a surprise since this issue was not raised as the bill passed through the Legislature. Please provide specifics to support your assertion.

   House Bill 949 removed, for example: the requirement for OPI to gather student-level data under § 20-7-104(6)(a)-(c) and (e), MCA; OPI's ability to gather certain categories of data under § 20-7-104(6)(f)-(j); and the ability of students to opt-in, or parents to opt-out, for the release of student data under former § 20-7-104(9)(c), MCA, and Senate Bill 480. OPI was not consulted on the amendments to House Bill 949.

2. Your concern about FERPA relative to the Education and Workforce Data Governing Board is unclear. The Board is to establish FERPA-compliant policies concerning data sharing among state agencies. It in itself is not a consumer of educational data. Please clarify your concerns regarding FERPA and this project.

   *FERPA, like the Montana Constitution, places limits on the ability of State agencies to disclose private information. Policies of the Workforce Data Governing Board that direct disclosure of student personally identifiable information, even if the Board is not the consumer of the data, must meet the requirement of the Federal rule implementing FERPA, which states that an allowable disclosure exists when, "The disclosure is to State and local officials or authorities to whom this information is **specifically**— … Allowed to be reported or disclosed pursuant to State statute…." 34 CFR 99.31(a)(5)(i), (i)(B) (emphasis added).*

3. You point out that "OPI gathers the information that it is required to gather under state and federal law." [emphasis added] Please provide a list of the data elements that OPI currently collects via its Achievement in Montana (AIM) system. Is the AIM system capable of collecting and sharing additional data elements? If so, at what cost?

   The data elements OPI gathers for the AIM system are found in OPI's Data Dictionary, available at https://opi.mt.gov/Portals/182/Page%20Files/AIM/5%20AIM%20DATA%20DICTIONARY/2022_Data%20Dictionary.pdf?ver=2022-03-01-103620-737, which compiles the legislative filter of data that OPI must gather. The AIM system database is capable of storing additional data elements, which can vary over time. The financial, security, legal, and administrative costs of storing additional data would depend on the additional data elements sought to be stored and the requested use of that data.

4. Full functionality of any data system depends on the amount and type of data that is available to it. Please describe the functionality that the PowerSchool system will lose given the limited data set that OPI currently gathers.

   The functionality of the PowerSchool system is not impacted when OPI is able to gather, as it is now, the data OPI is required to gather for compliance State and Federal laws.