

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 478, Page 1, Section A, Line 3, by  
2 inserting immediately after said line the following:

3 "161.096. 1. The state board of education shall promulgate a rule relating to student data  
4 accessibility, transparency, and accountability relating to the statewide longitudinal data system.  
5 This rule shall mandate that the department of elementary and secondary education do the  
6 following:

7 (1) Create and make publicly available a data inventory and index of data elements with  
8 definitions of individual student data fields in the student data system to include, but not be limited to:  
9

10 (a) Any personally identifiable student data required to be reported by state and federal  
11 education laws; and

12 (b) Any other individual student data which has been proposed for inclusion in the student  
13 data system with a statement regarding the purpose or reason for the proposed collection;

14 (2) Develop policies to comply with all relevant state and federal privacy laws and policies,  
15 including but not limited to the federal Family Educational Rights and Privacy Act (FERPA) and  
16 other relevant privacy laws and policies. These policies shall include, but not be limited to the  
17 following requirements:

18 (a) Access to personally identifiable student data in the statewide longitudinal data system  
19 shall be restricted to:

20 a. The authorized staff of the department of elementary and secondary education and the  
21 contractors working on behalf of the department who require such access to perform their assigned  
22 duties as required by law;

23 b. District administrators, teachers, and school personnel who require such access to  
24 perform their assigned duties;

25 c. Students and their parents for their own data; and

26 d. The authorized staff of other state agencies in this state as required by law and governed  
27 by interagency data sharing agreements;

28 (b) The department of elementary and secondary education shall develop criteria for the  
29 approval of research and data requests from state and local agencies, researchers working on behalf  
30 of the department, and the public;

31 (3) Shall not, unless otherwise provided by law and authorized by policies adopted pursuant  
32 to this section, transfer personally identifiable student data;

33 (4) Develop a detailed data security plan that includes:

34 (a) Guidelines for authorizing access to the student data system and to individual student  
35 data including guidelines for authentication of authorized access;

36 (b) Privacy compliance standards;

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 (c) Privacy and security audits;  
 2 (d) Breach planning, notification and procedures;  
 3 (e) Data retention and disposition policies; and  
 4 (f) Data security policies including electronic, physical, and administrative safeguards, such  
 5 as data encryption and training of employees;

6 (5) Ensure routine and ongoing compliance by the department of elementary and secondary  
 7 education with FERPA, other relevant privacy laws and policies, and the privacy and security  
 8 policies and procedures developed under the authority of this section, including the performance of  
 9 compliance audits;

10 (6) Ensure that any contracts that govern databases, assessments, or instructional supports  
 11 that include student or redacted data and are outsourced to private vendors include express  
 12 provisions that safeguard privacy and security, including provisions that prohibit private vendors  
 13 from selling student data or from using student data in furtherance of advertising, with penalties for  
 14 noncompliance, except to a local service provider for the limited purpose authorized by the school  
 15 or district whose access to student data, if any, is limited to "directory information" as that term is  
 16 defined in the federal regulations implementing the federal Family Educational Rights and Privacy  
 17 Act (FERPA), 20 U.S.C. Section 1232g; and

18 (7) Notify the governor, the president pro tempore of the senate, the speaker of the house of  
 19 representatives, and the joint committee on education annually of the following:

20 (a) New student data proposed for inclusion in the state student data system; and

21 (b) Changes to existing data collections required for any reason, including changes to  
 22 federal reporting requirements made by the U.S. Department of Education.

23 2. Quantifiable student performance data shall only include performance on locally  
 24 developed or locally approved assessments, including but not limited to formative assessments  
 25 developed by classroom teachers.

26 3. The department of elementary and secondary education shall not collect nor shall school  
 27 districts report the following individual student data:

28 (1) Juvenile court delinquency records;

29 (2) Criminal records;

30 (3) Student biometric information;

31 (4) Student political affiliation; or

32 (5) Student religion.

33 4. School districts shall not collect biometric information on any student without the express  
 34 written consent of the student's parent or legal guardian. For purposes of this section, "biometric  
 35 information" means a record of one or more measurable biological or behavioral characteristics that  
 36 can be used for automated recognition of an individual, including fingerprints, retina and iris  
 37 patterns, voice prints, DNA sequence, newborn screening information, facial characteristics, and  
 38 handwriting.

39 [4.] 5. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
 40 created under the authority delegated in this section shall become effective only if it complies with  
 41 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This  
 42 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
 43 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
 44 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
 45 adopted after August 28, 2014, shall be invalid and void.

46 [~~5.~~] 6. Each violation of any provision of any rule promulgated pursuant to this section by  
 47 an organization or entity other than a state agency, a school board, or an institution shall be  
 48 punishable by a civil penalty of up to one thousand dollars. A second violation by the same

1 organization or entity involving the education records and privacy of the same student shall be  
2 punishable by a civil penalty of up to five thousand dollars. Any subsequent violation by the same  
3 organization or entity involving the education records and privacy of the same student shall be  
4 punishable by a civil penalty of up to ten thousand dollars. Each violation involving a different  
5 individual education record or a different individual student shall be considered a separate violation  
6 for purposes of civil penalties.

7 ~~[6.]~~ 7. The attorney general shall have the authority to enforce compliance with this section  
8 by investigation and subsequent commencement of a civil action, to seek civil penalties for  
9 violations of this section, and to seek appropriate injunctive relief, including but not limited to a  
10 prohibition on obtaining personally identifiable information for an appropriate time period. In  
11 carrying out such investigation and in maintaining such civil action, the attorney general or any  
12 deputy or assistant attorney general is authorized to subpoena witnesses, compel their attendance,  
13 examine them under oath, and require that any books, records, documents, papers, or electronic  
14 records relevant to the inquiry be turned over for inspection, examination, or audit. Subpoenas  
15 issued under this subsection may be enforced pursuant to the Missouri rules of civil procedure."; and

16  
17 Further amend said bill by amending the title, enacting clause, and intersectional references  
18 accordingly.