

HOUSE BILL NO. 367

INTRODUCED BY B. MERCER, D. BEDEY, L. JONES, B. KEENAN, J. ESP, S. FITZPATRICK, D. SALOMON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING ADDITIONAL RESTRICTIONS FOR APPROPRIATIONS FOR THE OFFICE OF PUBLIC INSTRUCTION DATABASE MODERNIZATION; ESTABLISHING REPORTING REQUIREMENTS ON PROJECT PROGRESS; AMENDING SECTION 22(2)(E), CHAPTER 401, LAWS OF 2021, AND SECTION 5(2)(G), CHAPTER 551, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 22(2)(e), Chapter 401, Laws of 2021, is amended to read:

"Section 26 22. Appropriations to office of public instruction and office of budget and program planning.

(e) For OPI Database Modernization, funds must be used by the office of public instruction to repair, improve, or replace existing data systems to respond to learning loss associated with the pandemic. THE EXEMPTION GRANTED TO THE OFFICE OF PUBLIC INSTRUCTION IN 2-17-516 DOES NOT APPLY TO THIS SUBSECTION.

Actions taken must be consistent with 20-7-104 and must:

(i) facilitate ~~school district~~ use of data BY SCHOOL DISTRICTS, COMMUNITY COLLEGES, AND THE MONTANA UNIVERSITY SYSTEM to ~~drive~~ IMPROVE individual student ACADEMIC outcomes AND PERIODICALLY EVALUATE STUDENT ACADEMIC PERFORMANCE;

(ii) facilitate secure data sharing between school districts and the office of public instruction;

(iii) facilitate secure sharing of data between state agencies using the platform implemented by the department of administration, including the sharing of data with, but not limited to, the office of public instruction, the Montana university system, the office of the commissioner of higher education, and the department of labor and industry;

(iv) allow and require review and approval of specifications and procurement methods by the department of administration;

1 (v) allow and require final contract review and approval by the department of administration,
2 including contract amendments and other changes in scope or cost;

3 (vi) ~~fit seamlessly into the department of administration's information technology infrastructure~~
4 COMPLY WITH THE MONTANA PROCUREMENT ACT FOR THE PROCUREMENT TO SELECT A VENDOR AS THE STATED
5 PURPOSE OF THAT ACT IS TO PROVIDE FOR INCREASED PUBLIC CONFIDENCE IN THE PROCEDURES FOLLOWED IN PUBLIC
6 PROCUREMENT, TO ENSURE THE FAIR AND EQUITABLE TREATMENT OF ALL PERSONS WHO DEAL WITH THE PROCUREMENT
7 SYSTEM OF THE STATE, AND TO PROVIDE SAFEGUARDS FOR THE MAINTENANCE OF A PROCUREMENT SYSTEM OF QUALITY
8 AND INTEGRITY;

9 (vii) ~~consist of off-the-shelf solutions or platform-as-a-service models, or both, with a proven track~~
10 ~~record;~~ ENSURE THAT THE SUCCESSFUL OFFEROR HAS EXPERIENCE AND PROVEN PERFORMANCE IN THE
11 IMPLEMENTATION OF A DATA PLATFORM FOR THE SECURE STORAGE AND SHARING OF INFORMATION IN TWO OR MORE
12 STATES THAT FACILITATES:

13 (A) SCHOOL DISTRICT USE OF DATA TO IMPROVE INDIVIDUAL STUDENT ACADEMIC OUTCOMES AND TO
14 PERIODICALLY EVALUATE STUDENT ACADEMIC PERFORMANCE;

15 (B) SHARING OF DATA BETWEEN SCHOOL DISTRICTS AND STATE EDUCATION OFFICIALS; AND

16 (C) SHARING OF DATA BETWEEN STATE EDUCATION OFFICIALS AND OTHER STATE OFFICIALS, INCLUDING
17 HIGHER EDUCATION OFFICIALS AND OTHER STATE AGENCIES; and

18 (viii) ENSURE THAT A SUCCESSFUL OFFEROR IDENTIFIES HOW THE VENDOR'S PROPOSED SOLUTION IS
19 SUBSTANTIALLY SIMILAR TO A PROJECT THAT HAS BEEN INSTALLED IN TWO OR MORE STATES AND THE PERIOD OF TIME IT
20 HAS BEEN USED IN THOSE STATES; AND

21 (ix) UTILIZE COMMERCIAL OFF-THE-SHELF INFORMATION TECHNOLOGY RESOURCES WHENEVER FEASIBLE,
22 RATHER THAN THE COMMISSIONING OF CUSTOM SOLUTIONS. THE DEPARTMENT OF ADMINISTRATION SHALL HAVE FULL
23 OVERSIGHT AUTHORITY OVER ALL CUSTOM-DEVELOPED CODE UNDER THIS SUBSECTION (2)(E)(IX). FOR THE PURPOSES
24 OF THIS SUBSECTION (2)(E)(IX):

25 (A) "COMMERCIAL OFF-THE-SHELF" MEANS COMMERCIALLY AVAILABLE INFORMATION TECHNOLOGY
26 RESOURCES THAT ARE READY-MADE, PRIMARILY CONFIGURABLE, AND HAVE THE ABILITY TO BE ADAPTED AFTERMARKET
27 TO MEET THE NEEDS OF THE STATE; AND

28 (B) "INFORMATION TECHNOLOGY RESOURCE" MEANS ANY HARDWARE, SOFTWARE, AND ASSOCIATED

1 SERVICES, INCLUDING STATE AND THIRD-PARTY PLATFORMS, NETWORKS, SYSTEMS, OR FACILITIES, USED TO STORE OR
2 TRANSMIT INFORMATION IN ANY FORM.

3 ~~(ix)(x)~~ include a well-defined maintenance agreement."

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5 **Section 2.** Section 5(2)(g), Chapter 551, Laws of 2021, is amended to read:

6 **"Section 5. Appropriations APPROPRIATION -- authorization to spend federal money.**

7 (g) For OPI Database Modernization, funds must be used by the office of public instruction to
8 repair, improve, or replace existing data systems to respond to learning loss associated with the pandemic. THE
9 EXEMPTION GRANTED TO THE OFFICE OF PUBLIC INSTRUCTION IN 2-17-516 DOES NOT APPLY TO THIS SUBSECTION.

10 Actions taken must be consistent with the provisions of 20-7-104 and must:

11 (i) facilitate ~~school district~~ use of data BY SCHOOL DISTRICTS, COMMUNITY COLLEGES, AND THE
12 MONTANA UNIVERSITY SYSTEM to ~~drive~~ IMPROVE individual student ACADEMIC outcomes AND PERIODICALLY
13 EVALUATE STUDENT ACADEMIC PERFORMANCE;

14 (ii) facilitate secure data sharing between school districts and the office of public instruction;

15 (iii) facilitate secure sharing of data between state agencies using the platform implemented by the
16 department of administration, including the sharing of data with, but not limited to, the office of public
17 instruction, the Montana university system, the office of the commissioner of higher education, and the
18 department of labor and industry;

19 (iv) allow and require review and approval of specifications and procurement methods by the
20 department of administration;

21 (v) allow and require final contract review and approval by the department of administration,
22 including contract amendments and other changes in scope or cost;

23 (vi) fit seamlessly into the department of administration's information technology infrastructure

24 COMPLY WITH THE MONTANA PROCUREMENT ACT FOR THE PROCUREMENT TO SELECT A VENDOR AS THE STATED
25 PURPOSE OF THAT ACT IS TO PROVIDE FOR INCREASED PUBLIC CONFIDENCE IN THE PROCEDURES FOLLOWED IN PUBLIC
26 PROCUREMENT, TO ENSURE THE FAIR AND EQUITABLE TREATMENT OF ALL PERSONS WHO DEAL WITH THE PROCUREMENT
27 SYSTEM OF THE STATE, AND TO PROVIDE SAFEGUARDS FOR THE MAINTENANCE OF A PROCUREMENT SYSTEM OF QUALITY
28 AND INTEGRITY;

1 ~~(vii) consist of off-the-shelf solutions or platform-as-a-service models, or both, with a proven track~~
2 ~~record~~ ENSURE THAT THE SUCCESSFUL OFFEROR HAS EXPERIENCE AND PROVEN PERFORMANCE IN THE
3 IMPLEMENTATION OF A DATA PLATFORM FOR THE SECURE STORAGE AND SHARING OF INFORMATION IN TWO OR MORE
4 STATES THAT FACILITATES:

5 (A) SCHOOL DISTRICT USE OF DATA TO IMPROVE INDIVIDUAL STUDENT ACADEMIC OUTCOMES AND TO
6 PERIODICALLY EVALUATE STUDENT ACADEMIC PERFORMANCE;

7 (B) SHARING OF DATA BETWEEN SCHOOL DISTRICTS AND STATE EDUCATION OFFICIALS; AND

8 (C) SHARING OF DATA BETWEEN STATE EDUCATION OFFICIALS AND OTHER STATE OFFICIALS, INCLUDING
9 HIGHER EDUCATION OFFICIALS AND OTHER STATE AGENCIES; and

10 (viii) ENSURE THAT A SUCCESSFUL OFFEROR IDENTIFIES HOW THE VENDOR'S PROPOSED SOLUTION IS
11 SUBSTANTIALLY SIMILAR TO A PROJECT THAT HAS BEEN INSTALLED IN TWO OR MORE STATES AND THE PERIOD OF TIME IT
12 HAS BEEN USED IN THOSE STATES; AND

13 (ix) UTILIZE COMMERCIAL OFF-THE-SHELF INFORMATION TECHNOLOGY RESOURCES WHENEVER FEASIBLE,
14 RATHER THAN THE COMMISSIONING OF CUSTOM SOLUTIONS. THE DEPARTMENT OF ADMINISTRATION SHALL HAVE FULL
15 OVERSIGHT AUTHORITY OVER ALL CUSTOM-DEVELOPED CODE UNDER THIS SUBSECTION (2)(G)(IX). FOR THE PURPOSES
16 OF THIS SUBSECTION (2)(G)(IX):

17 (A) "COMMERCIAL OFF-THE-SHELF" MEANS COMMERCIALLY AVAILABLE INFORMATION TECHNOLOGY
18 RESOURCES THAT ARE READY-MADE, PRIMARILY CONFIGURABLE, AND HAVE THE ABILITY TO BE ADAPTED AFTERMARKET
19 TO MEET THE NEEDS OF THE STATE; AND

20 (B) "INFORMATION TECHNOLOGY RESOURCE" MEANS ANY HARDWARE, SOFTWARE, AND ASSOCIATED
21 SERVICES, INCLUDING STATE AND THIRD-PARTY PLATFORMS, NETWORKS, SYSTEMS, OR FACILITIES, USED TO STORE OR
22 TRANSMIT INFORMATION IN ANY FORM.

23 ~~(ix)(x) include a well-defined maintenance agreement."~~

24
25 **NEW SECTION. SECTION 3. REPORTING REQUIREMENTS. (1) WITHIN 30 DAYS OF [THE EFFECTIVE DATE OF**
26 **THIS ACT], AND EVERY MONTH THEREAFTER, THE DEPARTMENT OF ADMINISTRATION AND THE OFFICE OF PUBLIC**
27 **INSTRUCTION SHALL PROVIDE A WRITTEN REPORT TO THE COMMITTEES LISTED IN SUBSECTION (3) ON THE STATUS OF**
28 **THE PROCUREMENT PROCESS FOR THE DATABASE MODERNIZATION PROJECT. THE REPORT MUST INCLUDE INFORMATION**

1 ON THE POTENTIAL VENDOR AND THE STATUS OF THE REQUEST FOR PROPOSAL PROCESS.

2 (2) AFTER THE PROCUREMENT PROCESS IS COMPLETE AND A VENDOR HAS BEEN SELECTED, THE OFFICE
3 OF PUBLIC INSTRUCTION SHALL CONTINUE TO PROVIDE WRITTEN REPORTS TO THE COMMITTEES LISTED IN SUBSECTION

4 (3) ON THE STATUS OF THE FOLLOWING EVERY 2 MONTHS:

5 (A) THE INCURRED AND ANTICIPATED COSTS OF THE PROJECT;

6 (B) THE IMPLEMENTATION TIMELINE; AND

7 (C) ANY OTHER INFORMATION RELEVANT TO THE PROJECT.

8 (3) THE DEPARTMENT OF ADMINISTRATION AND THE OFFICE OF PUBLIC INSTRUCTION SHALL PROVIDE THE
9 REPORTS OUTLINED IN SUBSECTIONS (1) AND (2) TO THE FOLLOWING COMMITTEES:

10 (A) THE LEGISLATIVE FINANCE COMMITTEE;

11 (B) THE EDUCATION INTERIM COMMITTEE;

12 (C) THE GENERAL GOVERNMENT BUDGET COMMITTEE PROVIDED FOR IN 5-12-501; AND

13 (D) THE EDUCATION BUDGET COMMITTEE PROVIDED FOR IN 5-12-501.

14 (4) THE REPORTS MUST BE DELIVERED IN AN ELECTRONIC FORMAT.

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16 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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