

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 15-0279.02 Jane Ritter x4342

SENATE BILL 15-173

SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

Pabon,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 **CONCERNING EXPANDING PROTECTIONS FOR STUDENT DATA SECURITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill adds additional protections to existing law concerning student data privacy and transparency. A vendor is defined as an operator of a web site, on-line service, on-line application, or mobile application (site or service) with knowledge that the site or service is used primarily for public school purposes and was designed and marketed for public school purposes.

The bill prohibits vendors from:

! Engaging in targeted advertising if the targeting is based

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
March 17, 2015

upon any student information acquired because of the use of a vendor's site or service;

- ! Using information acquired through the site or service to create a profile of a student that is not in furtherance of a public school purpose;
- ! Selling a student's information; and
- ! Disclosing covered student information unless specific requirements are met.

The bill allows vendors to:

- ! Implement and maintain reasonable security procedures and practices;
- ! Delete a student's data at the request of the school or school district with control of the data;
- ! Disclose covered student information if required by state or federal law;
- ! Disclose covered student information for legitimate research purposes, provided applicable requirements of state and federal law are met;
- ! Disclose deidentified covered student information in order to improve the vendor's sites or services or other educational products or for marketing uses.

The bill does not:

- ! Limit the authority of law enforcement to access any information allowed by law or authorized by a court order;
- ! Apply to general audience sites and services or to internet service providers in the course of providing internet connectivity;
- ! Prohibit a vendor from marketing its product or services, provided the marketing did not result from the use of covered student information obtained by the vendor in violation of the bill;
- ! Impose duties on electronic stores, gateways, marketplaces, or other means of purchasing or downloading software or applications; or
- ! Impede the ability of a student to download, export, or otherwise save or maintain his or her own student-created data or documents.

The bill moves existing law related to parental written consent for obtaining and releasing data to part 3 of article 2 of title 22, C.R.S., along with other relevant law related to student data.

1 *Be it enacted by the General Assembly of the State of Colorado:*

1 **SECTION 1.** In Colorado Revised Statutes, **amend** 22-2-301 as
2 follows:

3 **22-2-301. Short title.** This part 3 shall be known and may be cited
4 as the "Data Reporting and Technology PROTECTION Act".

5 **SECTION 2.** In Colorado Revised Statutes, **add** 22-2-310 as
6 follows:

7 **22-2-310. Student data protection - accountability and**
8 **transparency - legislative declaration - definitions - prohibited**
9 **actions - remedies.** (1) THE GENERAL ASSEMBLY FINDS THAT ALTHOUGH
10 THERE ARE FEDERAL STATUTES LIMITING THE USE OF STUDENT DATA
11 COLLECTED BY SCHOOLS, THESE STATUTES PRIMARILY GOVERN THE
12 ACTIONS OF SCHOOLS AND GOVERNMENT ENTITIES AND HAVE LESS
13 APPLICABILITY TO THIRD-PARTY VENDORS. THE EFFECTIVE USE OF
14 STUDENT DATA TO IMPROVE LEARNING REQUIRES A FRAMEWORK OF TRUST
15 AROUND ITS USE.

16 (2) IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY TO
17 ACHIEVE THE FOLLOWING PURPOSES:

18 (a) TO ENSURE THE PRIVACY OF ALL PUBLIC SCHOOL STUDENTS BY
19 RESTRICTING THIRD-PARTY VENDORS FROM SHARING, MINING, SELLING, OR
20 USING PERSONALLY IDENTIFIABLE DATA COLLECTED BY SCHOOLS, SCHOOL
21 DISTRICTS, AND BOARDS OF COOPERATIVE SERVICES; AND

22 (b) TO PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE
23 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM USING,
24 DISCLOSING, OR COMPILING PERSONAL INFORMATION OF A PUBLIC SCHOOL
25 STUDENT FOR THE PURPOSE OF MARKETING OR ADVERTISING.

26 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
27 REQUIRES:

1 (a) "COVERED INFORMATION" MEANS PERSONALLY IDENTIFIABLE
2 INFORMATION OR MATERIALS, IN ANY MEDIA OR FORMAT THAT IS:

3 (I) CREATED OR PROVIDED BY A STUDENT, OR THE STUDENT'S
4 PARENT OR LEGAL GUARDIAN, TO AN OPERATOR IN THE COURSE OF THE
5 STUDENT'S, PARENT'S, OR LEGAL GUARDIAN'S USE OF THE OPERATOR'S WEB
6 SITE, SERVICE, OR APPLICATION FOR PUBLIC SCHOOL PURPOSES;

7 (II) CREATED OR PROVIDED BY AN EMPLOYEE OR AGENT OF THE
8 PUBLIC SCHOOL, SCHOOL DISTRICT, BOARD OF COOPERATIVE SERVICES,
9 CHARTER SCHOOL INSTITUTE, LOCAL EDUCATION AGENCY, OR
10 DEPARTMENT TO AN OPERATOR; OR

11 (III) GATHERED BY AN OPERATOR THROUGH THE OPERATION OF A
12 WEB SITE, ON-LINE SERVICE, OR ON-LINE APPLICATION THAT IS USED
13 PRIMARILY FOR PUBLIC SCHOOL PURPOSES, WAS DESIGNED AND MARKETED
14 FOR PUBLIC SCHOOL PURPOSES, AND IS DESCRIPTIVE OF OR OTHERWISE
15 IDENTIFIES A STUDENT. THIS INCLUDES, BUT IS NOT LIMITED TO:

16 (A) INFORMATION IN THE STUDENT'S EDUCATIONAL RECORD OR
17 ELECTRONIC MAIL;

18 (B) STUDENT DATA;

19 (C) FIRST AND LAST NAME, HOME ADDRESS, TELEPHONE NUMBER,
20 ELECTRONIC MAIL ADDRESS, OR ANY OTHER INFORMATION THAT ALLOWS
21 PHYSICAL OR ON-LINE CONTACT; OR

22 (D) DISCIPLINE OR CRIMINAL RECORDS, JUVENILE DEPENDENCY
23 RECORDS, MEDICAL OR HEALTH RECORDS, SOCIAL SECURITY NUMBER,
24 BIOMETRIC INFORMATION, DISABILITIES, SOCIOECONOMIC INFORMATION,
25 POLITICAL AFFILIATIONS, RELIGIOUS INFORMATION, TEXT MESSAGES,
26 DOCUMENTS, STUDENT IDENTIFIERS, SEARCH ACTIVITY, PHOTOS, VOICE
27 RECORDINGS, FOOD PURCHASES, OR GEOLOCATION INFORMATION.

1 (b) "EDUCATION RECORD" HAS THE SAME MEANING AS DEFINED IN
2 THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF
3 1974", AS AMENDED, 20 U.S.C. SEC. 1232g. "EDUCATION RECORD"
4 INCLUDES AN INDIVIDUALIZED EDUCATION PROGRAM.

5 (c) "OPERATOR" MEANS ANY OPERATOR OF AN INTERNET WEB SITE;
6 AN ON-LINE SERVICE, INCLUDING CLOUD COMPUTING SERVICES; AN
7 ON-LINE APPLICATION; OR A MOBILE APPLICATION WITH ACTUAL
8 KNOWLEDGE THAT THE SITE, SERVICE, OR APPLICATION IS USED PRIMARILY
9 FOR PUBLIC SCHOOL PURPOSES AND WAS DESIGNED AND MARKETED FOR
10 PUBLIC SCHOOL PURPOSES. "OPERATOR" DOES NOT INCLUDE A SCHOOL, A
11 SCHOOL DISTRICT, BOARD OF COOPERATIVE SERVICES, THE CHARTER
12 SCHOOL INSTITUTE, THE DEPARTMENT, OR THE STATE BOARD.

13 (d) "PERSONALLY IDENTIFIABLE INFORMATION" HAS THE SAME
14 MEANING AS DEFINED IN THE FEDERAL "FAMILY EDUCATIONAL RIGHTS
15 AND PRIVACY ACT OF 1974", AS AMENDED, 20 U.S.C. SEC. 1232g.

16 (e) "PUBLIC SCHOOL PURPOSE" MEANS ANY PURPOSE THAT
17 CUSTOMARILY TAKES PLACE AT THE DIRECTION OF A PUBLIC SCHOOL,
18 TEACHER, SCHOOL DISTRICT, _____ CHARTER SCHOOL, A BOARD OF
19 COOPERATIVE SERVICES, OR THE CHARTER SCHOOL INSTITUTE, OR AIDS IN
20 THE ADMINISTRATION OF SCHOOL ACTIVITIES, INCLUDING, BUT NOT
21 LIMITED TO, INSTRUCTION IN THE CLASSROOM OR AT HOME,
22 ADMINISTRATIVE ACTIVITIES, AND COLLABORATION BETWEEN STUDENTS,
23 SCHOOL PERSONNEL, OR PARENTS, OR ANY OTHER PURPOSE THAT IS FOR
24 THE USE AND BENEFIT OF A PUBLIC SCHOOL, CHARTER SCHOOL, OR BOARD
25 OF COOPERATIVE SERVICES.

26 (f) "TARGETED ADVERTISING" MEANS DELIVERING
27 ADVERTISEMENTS TO A STUDENT WHERE THE ADVERTISEMENT IS

1 SELECTED BASED ON INFORMATION OBTAINED OR INFERRED FROM THAT
2 STUDENT'S ON-LINE VIEWING BEHAVIOR, USAGE OF APPLICATIONS, OR
3 COVERED INFORMATION. "TARGETED ADVERTISING" DOES NOT INCLUDE
4 USE OF SEARCH ENGINES OR RECOMMENDATION ENGINES, CONTEXTUAL
5 ADVERTISING, RUN OF NETWORK ADVERTISING, OR ADAPTIVE OR
6 INDIVIDUALIZED LEARNING.

7 (4) AN OPERATOR SHALL NOT KNOWINGLY ENGAGE IN ANY OF THE
8 FOLLOWING ACTIVITIES WITH RESPECT TO ITS WEB SITE, SERVICE, OR
9 APPLICATION:

10 (a) (I) ENGAGE IN TARGETED ADVERTISING ON THE OPERATOR'S
11 WEB SITE, SERVICE, OR APPLICATION; OR

12 (II) TARGET ADVERTISING ON ANY OTHER WEB SITE, SERVICE, OR
13 APPLICATION WHEN THE TARGETING OF THE ADVERTISING IS BASED UPON
14 ANY INFORMATION, INCLUDING COVERED INFORMATION AND PERSISTENT
15 UNIQUE IDENTIFIERS, THAT THE OPERATOR HAS ACQUIRED BECAUSE OF THE
16 USE OF THAT OPERATOR'S WEB SITE, SERVICE, OR APPLICATION;

17 (b) USE INFORMATION, INCLUDING PERSISTENT UNIQUE
18 IDENTIFIERS, CREATED OR GATHERED BY THE OPERATOR'S WEB SITE,
19 SERVICE, OR APPLICATION, TO AMASS A PROFILE ABOUT A PUBLIC SCHOOL
20 STUDENT, EXCEPT IN FURTHERANCE OF A PUBLIC SCHOOL PURPOSE.
21 AMASSING A PROFILE DOES NOT INCLUDE COLLECTION AND RETENTION OF
22 ACCOUNT RECORDS OR INFORMATION THAT REMAINS UNDER THE CONTROL
23 OF THE STUDENT, PARENT, SCHOOL, SCHOOL DISTRICT, OR BOARD OF
24 COOPERATIVE SERVICES.

25 (c) SELL A STUDENT'S INFORMATION, INCLUDING COVERED
26 INFORMATION. THIS PROHIBITION DOES NOT APPLY TO THE PURCHASE,
27 MERGER, OR OTHER TYPE OF ACQUISITION OF AN OPERATOR BY ANOTHER

1 ENTITY, PROVIDED THAT THE OPERATOR OR SUCCESSOR ENTITY CONTINUES
2 TO COMPLY WITH THE PROVISIONS OF THIS SECTION CONCERNING
3 PREVIOUSLY ACQUIRED STUDENT INFORMATION.

4 (d) DISCLOSE COVERED INFORMATION UNLESS THE DISCLOSURE IS
5 MADE, TO THE EXTENT REASONABLY NECESSARY:

6 (I) IN FURTHERANCE OF THE PUBLIC SCHOOL PURPOSE OF THE WEB
7 SITE, SERVICE, OR APPLICATION, PROVIDED THE RECIPIENT OF THE
8 COVERED INFORMATION DISCLOSED PURSUANT TO THIS PARAGRAPH (d):

9 (A) DOES NOT FURTHER DISCLOSE THE COVERED INFORMATION
10 UNLESS DONE TO ALLOW OR IMPROVE OPERABILITY AND FUNCTIONALITY
11 WITHIN THAT STUDENT'S CLASSROOM OR SCHOOL; AND

12 (B) IS LEGALLY REQUIRED TO COMPLY WITH SUBSECTION (6) OF
13 THIS SECTION;

14 (II) TO PROTECT THE SECURITY OR INTEGRITY OF ITS WEB SITE,
15 SERVICE, OR APPLICATION;

16 (III) TO TAKE PRECAUTIONS AGAINST LIABILITY;

17 (IV) TO RESPOND TO THE JUDICIAL PROCESS;

18 (V) TO THE EXTENT PERMITTED UNDER OTHER PROVISIONS OF
19 LAW, TO PROVIDE INFORMATION TO LAW ENFORCEMENT AGENCIES OR FOR
20 AN INVESTIGATION ON A MATTER RELATED TO PUBLIC SAFETY; OR

21 (VI) TO A SERVICE PROVIDER, PROVIDED THAT THE OPERATOR
22 CONTRACTUALLY:

23 (A) PROHIBITS THE SERVICE PROVIDER FROM USING ANY COVERED
24 INFORMATION FOR ANY PURPOSE OTHER THAN PROVIDING THE
25 CONTRACTED SERVICE TO, OR ON BEHALF OF, THE OPERATOR;

26 (B) PROHIBITS THE SERVICE PROVIDER FROM DISCLOSING ANY
27 COVERED INFORMATION PROVIDED BY THE OPERATOR WITH SUBSEQUENT

1 THIRD PARTIES, EXCEPT TO THE EXTENT NECESSARY TO CARRY OUT
2 LEGITIMATE EDUCATIONAL FUNCTIONS DELEGATED TO IT BY THE AGENCY
3 OR INSTITUTION; AND

4 (C) REQUIRES THE SERVICE PROVIDER TO IMPLEMENT AND
5 MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES AS
6 PROVIDED FOR IN SUBSECTION (6) OF THIS SECTION.

7 (5) NOTHING IN SUBSECTION (4) OF THIS SECTION SHALL BE
8 CONSTRUED TO PROHIBIT THE OPERATOR'S USE OF INFORMATION FOR
9 MAINTAINING, DEVELOPING, SUPPORTING, IMPROVING, OR DIAGNOSING THE
10 OPERATOR'S WEB SITE, SERVICE, OR APPLICATION.

11 (6) AN OPERATOR SHALL:

12 (a) IMPLEMENT AND MAINTAIN REASONABLE SECURITY
13 PROCEDURES AND PRACTICES THAT, AT A MINIMUM, MEET THE
14 REQUIREMENTS DEVELOPED BY THE DEPARTMENT AND STATE BOARD
15 PURSUANT TO SECTION 22-2-309 AND THAT ARE APPROPRIATE TO THE
16 NATURE OF THE COVERED INFORMATION AND PROTECT THAT INFORMATION
17 FROM UNAUTHORIZED ACCESS, DESTRUCTION, USE, MODIFICATION, OR
18 DISCLOSURE;

19 (b) DELETE A STUDENT'S COVERED INFORMATION IF THE PUBLIC
20 SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL, BOARD OF COOPERATIVE
21 SERVICES, OR CHARTER SCHOOL INSTITUTE REQUESTS SUCH DELETION OF
22 ANY DATA UNDER THE CONTROL OF THE PUBLIC SCHOOL, SCHOOL
23 DISTRICT, CHARTER SCHOOL, BOARD OF COOPERATIVE SERVICES, OR
24 CHARTER SCHOOL INSTITUTE;

25 (c) PUBLICLY AND CONSPICUOUSLY POST:

26 (I) THE NAME AND CONTACT INFORMATION OF THE OPERATOR
27 COLLECTING OR GENERATING COVERED INFORMATION AND THE NAME AND

1 CONTACT INFORMATION OF ANY THIRD PARTY TO WHOM THE OPERATOR
2 HAS DISCLOSED COVERED INFORMATION;

3 (II) A LIST OF THE TYPE OF COVERED INFORMATION DESCRIBED IN
4 SUB-SUBPARAGRAPHS (C) AND (D) OF SUBPARAGRAPH (III) OF PARAGRAPH
5 (a) OF SUBSECTION (3) OF THIS SECTION THAT IS COLLECTED OR
6 GENERATED BY THE OPERATOR OR DISCLOSED BY THE OPERATOR TO A
7 THIRD PARTY;

8 (III) THE PUBLIC SCHOOL PURPOSE OR PURPOSES FOR WHICH THE
9 COVERED INFORMATION IS INTENDED TO BE USED; AND

10 (IV) THE OPERATOR'S POLICIES REGARDING RETENTION AND
11 DISPOSAL OF COVERED INFORMATION; AND

12 (d) UPON REQUEST, PROVIDE THE STATE BOARD, DEPARTMENT,
13 SCHOOL DISTRICTS, BOARDS OF COOPERATIVE SERVICES, OR THE CHARTER
14 SCHOOL INSTITUTE WITH:

15 (I) THE DATA ELEMENTS AND A DESCRIPTION OF ANY COVERED
16 INFORMATION DESCRIBED IN SUB-SUBPARAGRAPHS (A), (C), AND (D) OF
17 SUBPARAGRAPH (III) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS
18 SECTION THAT IS COLLECTED BY THE OPERATOR OR DISCLOSED BY THE
19 OPERATOR TO A THIRD PARTY;

20 (II) THE OPERATOR'S POLICIES REGARDING ACCESS CONTROLS,
21 ENCRYPTION, STORAGE, AND DATA TRANSIT; AND

22 (III) THE NAME AND CONTACT INFORMATION OF THE SOURCE OF
23 ANY DATA SET MERGED WITH ANY COVERED INFORMATION COLLECTED BY
24 THE OPERATOR.

25 (7) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (d) OF
26 SUBSECTION (4) OF THIS SECTION, AN OPERATOR MAY DISCLOSE COVERED
27 INFORMATION OF A STUDENT UNDER THE FOLLOWING CIRCUMSTANCES, AS

1 LONG AS PARAGRAPHS (a) TO (c) OF SUBSECTION (4) OF THIS SECTION,
2 INCLUSIVE, ARE NOT VIOLATED:

3 (a) IF OTHER PROVISIONS OF STATE OR FEDERAL LAW REQUIRE THE
4 OPERATOR TO DISCLOSE THE COVERED INFORMATION AND THE OPERATOR
5 COMPLIES WITH THE APPLICABLE REQUIREMENTS OF STATE AND FEDERAL
6 LAW IN PROTECTING AND DISCLOSING THE INFORMATION;

7 (b) FOR LEGITIMATE RESEARCH PURPOSES APPROVED BY THE
8 SCHOOL DISTRICT, A BOARD OF COOPERATIVE SERVICES, OR THE CHARTER
9 SCHOOL INSTITUTE:

10 (I) AS REQUIRED BY STATE OR FEDERAL LAW AND SUBJECT TO THE
11 RESTRICTIONS UNDER APPLICABLE STATE AND FEDERAL LAW; OR

12 (II) AS ALLOWED BY STATE OR FEDERAL LAW AND UNDER THE
13 DIRECTION OF A PUBLIC SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL,
14 BOARD OF COOPERATIVE SERVICES, CHARTER SCHOOL INSTITUTE, OR THE
15 DEPARTMENT, IF NO COVERED INFORMATION IS USED FOR ANY PURPOSE IN
16 FURTHERANCE OF ADVERTISING OR TO AMASS A PROFILE ON A STUDENT
17 FOR A PURPOSE OTHER THAN A PUBLIC SCHOOL PURPOSE; AND

18 (c) TO A STATE OR LOCAL EDUCATION AGENCY, INCLUDING PUBLIC
19 SCHOOLS, SCHOOL DISTRICTS, CHARTER SCHOOLS, BOARDS OF
20 COOPERATIVE SERVICES, OR THE CHARTER SCHOOL INSTITUTE FOR A
21 PUBLIC SCHOOL PURPOSE, AS PERMITTED BY STATE OR FEDERAL LAW.

22 (8) NOTHING IN THIS SECTION PROHIBITS AN OPERATOR FROM
23 USING DEIDENTIFIED COVERED INFORMATION AS FOLLOWS:

24 (a) WITHIN THE OPERATOR'S WEB SITE, SERVICE, OR APPLICATION,
25 OR OTHER WEB SITES, SERVICES, OR APPLICATIONS OWNED BY THE
26 OPERATOR, TO IMPROVE ITS EDUCATIONAL PRODUCTS; OR

27 (b) TO DEMONSTRATE THE EFFECTIVENESS OF THE OPERATOR'S

1 PRODUCTS OR SERVICES, INCLUDING ITS MARKETING.

2 (9) NOTHING IN THIS SECTION PROHIBITS AN OPERATOR FROM
3 SHARING AGGREGATED AND DEIDENTIFIED COVERED INFORMATION FOR
4 THE DEVELOPMENT AND IMPROVEMENT OF EDUCATIONAL WEB SITES,
5 SERVICES, OR APPLICATIONS.

6 (10) THIS SECTION DOES NOT:

7 (a) LIMIT THE AUTHORITY OF A LAW ENFORCEMENT AGENCY TO
8 OBTAIN ANY CONTENT OR INFORMATION FROM AN OPERATOR AS
9 AUTHORIZED BY LAW OR PURSUANT TO AN ORDER OF A COURT OF
10 COMPETENT JURISDICTION;

11 (b) LIMIT THE ABILITY OF AN OPERATOR TO USE STUDENT DATA,
12 INCLUDING COVERED INFORMATION, FOR ADAPTIVE LEARNING OR
13 CUSTOMIZED STUDENT LEARNING PURPOSES;

14 (c) APPLY TO GENERAL-AUDIENCE INTERNET WEB SITES, ON-LINE
15 SERVICES, ON-LINE APPLICATIONS, OR MOBILE APPLICATIONS, EVEN IF
16 LOG-IN CREDENTIALS CREATED FOR AN OPERATOR'S WEB SITE, SERVICE, OR
17 APPLICATION MAY BE USED TO ACCESS THE GENERAL-AUDIENCE WEB SITE,
18 SERVICE, APPLICATION, OR MOBILE APPLICATION;

19 (d) LIMIT INTERNET SERVICE PROVIDERS FROM PROVIDING
20 INTERNET CONNECTIVITY TO SCHOOLS OR STUDENTS AND THEIR FAMILIES;

21 (e) PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE
22 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM
23 MARKETING EDUCATIONAL PRODUCTS DIRECTLY TO PARENTS, SO LONG AS
24 THE MARKETING DID NOT RESULT FROM THE USE OF COVERED
25 INFORMATION OBTAINED BY THE OPERATOR THROUGH THE PROVISION OF
26 SERVICES COVERED UNDER THIS SECTION;

27 (f) IMPOSE A DUTY UPON A PROVIDER OF AN ELECTRONIC STORE,

1 GATEWAY, MARKETPLACE, OR OTHER MEANS OF PURCHASING OR
2 DOWNLOADING SOFTWARE OR APPLICATIONS TO REVIEW OR ENFORCE
3 COMPLIANCE OF THIS SECTION ON THOSE APPLICATIONS OR SOFTWARE;

4 (g) IMPOSE A DUTY UPON A PROVIDER OF AN INTERACTIVE
5 COMPUTER SERVICE, AS DEFINED IN SECTION 230 OF TITLE 47, U.S.C., TO
6 REVIEW OR ENFORCE COMPLIANCE WITH THIS SECTION BY THIRD-PARTY
7 CONTENT PROVIDERS; AND

8 (h) IMPEDE THE ABILITY OF A STUDENT TO DOWNLOAD, EXPORT, OR
9 OTHERWISE SAVE OR MAINTAIN HIS OR HER STUDENT-CREATED DATA OR
10 DOCUMENTS.

11 (11) ANY INTERESTED PARTY MAY MAKE AN INITIAL REPORT OF
12 ALLEGED VIOLATIONS OF THIS SECTION TO THE DEPARTMENT. THE
13 DEPARTMENT SHALL CONTACT THE OPERATOR DIRECTLY AND PROVIDE THE
14 OPERATOR WITH THE OPPORTUNITY TO EXPLAIN OR RECTIFY. IF THE
15 DEPARTMENT CONTINUES TO RECEIVE COMPLAINTS ABOUT THE SAME
16 OPERATOR, IT MAY BRING THE ISSUE TO THE OFFICE OF THE ATTORNEY
17 GENERAL FOR REVIEW AND ACTION.

18 **SECTION 3.** In Colorado Revised Statutes, add 22-2-311 as
19 follows:

20 **22-2-311. Data protection - disclosure and transparency -**
21 **definition.** (1) BEGINNING WITH THE START OF THE 2015-16 ACADEMIC
22 YEAR, AND AT THE START OF EACH ACADEMIC YEAR THEREAFTER:

23 (a) EACH SCHOOL DISTRICT, CHARTER SCHOOL, AND THE CHARTER
24 SCHOOL INSTITUTE SHALL PROVIDE AN ANNUAL NOTICE TO PARENTS AND
25 LEGAL GUARDIANS LISTING ALL OPERATORS WITH WHOM THE SCHOOL
26 DISTRICT, CHARTER SCHOOL, OR CHARTER SCHOOL INSTITUTE HAS
27 ENTERED INTO A NEGOTIATED CONTRACT, EXCLUDING END-USER

1 AGREEMENTS, THAT PROVIDES FOR THE TRANSFER OF COVERED
2 INFORMATION FOR THE UPCOMING ACADEMIC YEAR; AND

3 (b) EACH OPERATOR THAT HAS ENTERED INTO A NEGOTIATED
4 CONTRACT, EXCLUDING END-USER AGREEMENTS, WITH A SCHOOL
5 DISTRICT, CHARTER SCHOOL, OR THE CHARTER SCHOOL INSTITUTE FOR THE
6 UPCOMING ACADEMIC YEAR SHALL POST ALL SUCH CONTRACTS ON THE
7 OPERATOR'S WEB SITE.

8 (2) THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION DO
9 NOT APPLY TO RURAL PUBLIC SCHOOLS, RURAL SCHOOL DISTRICTS, OR
10 RURAL CHARTER SCHOOLS AS THOSE TERMS ARE DEFINED BY THE
11 DEPARTMENT.

12 (3) AS USED IN THIS SECTION, "OPERATOR" MEANS ANY OPERATOR
13 OF AN INTERNET WEB SITE; AN ON-LINE SERVICE, INCLUDING CLOUD
14 COMPUTING SERVICES; AN ON-LINE APPLICATION; OR A MOBILE
15 APPLICATION WITH ACTUAL KNOWLEDGE THAT THE SITE, SERVICE, OR
16 APPLICATION IS USED PRIMARILY FOR PUBLIC SCHOOL PURPOSES AND WAS
17 DESIGNED AND MARKETED FOR PUBLIC SCHOOL PURPOSES. "OPERATOR"
18 DOES NOT INCLUDE A SCHOOL, A SCHOOL DISTRICT, THE DEPARTMENT, OR
19 THE STATE BOARD.

20 **SECTION 4. In Colorado Revised Statutes, 22-1-123, add (14)**
21 **as follows:**

22 **22-1-123. Protection of student data - parental or legal**
23 **guardian consent for surveys. (14) (a) If a PUBLIC SCHOOL, SCHOOL**
24 **DISTRICT, CHARTER SCHOOL, BOARD OF COOPERATIVE SERVICES, OR THE**
25 **CHARTER SCHOOL INSTITUTE UTILIZES CLOUD COMPUTING SERVICES, WEB**
26 **SITES, ON-LINE PROGRAMS, OR APPLICATIONS THAT COLLECT OR STORE**
27 **STUDENT INFORMATION, WHETHER THE INFORMATION IS PERSONALLY**

1 IDENTIFIABLE OR NOT, IT SHALL DEVELOP AN EDUCATION TECHNOLOGY
2 PLAN THAT PROVIDES FOR THE FOLLOWING:

3 (I) ANNUAL NOTICE TO PARENTS AND LEGAL GUARDIANS
4 CONCERNING THE TYPE OF DATA TRANSFERRED TO CLOUD COMPUTING
5 SERVICE PROVIDERS;

6 (II) TRAINING FOR STUDENTS AND STAFF CONCERNING THE
7 APPROPRIATE USE OF TECHNOLOGY, INCLUDING SAFETY AND PRIVACY
8 SAFEGUARDS AND PROTOCOLS; AND

9 (III) NOTICE TO THE PARENT OR LEGAL GUARDIAN IF THERE IS A
10 SECURITY BREACH OR OTHER UNAUTHORIZED DISCLOSURE OF HIS OR HER
11 CHILD'S INFORMATION.

12 (b) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO RURAL
13 PUBLIC SCHOOLS, RURAL SCHOOL DISTRICTS, OR RURAL CHARTER
14 SCHOOLS, AS THOSE TERMS ARE DEFINED BY THE DEPARTMENT OF
15 EDUCATION OR TO BOARDS OF COOPERATIVE SERVICES.

16 **SECTION 5.** In Colorado Revised Statutes, **amend 22-2-106.5**
17 as follows:

18 **22-2-106.5. State board - duties with regard to student data -**
19 **memorandum of understanding.** (1) Notwithstanding the provisions of
20 section 22-2-111 (3) (a), the state board shall enter into a memorandum
21 of understanding on or before September 1, 2006, with the Colorado
22 commission on higher education to adopt a policy to share student data.
23 At a minimum, the policy shall ensure that the exchange of information
24 is conducted in conformance with the requirements of the federal "Family
25 Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec.
26 1232g, and all federal regulations and applicable guidelines adopted in
27 accordance therewith. The policy shall additionally require the state

1 board, upon request, to share student data with qualified researchers. For
2 purposes of this section, qualified researchers shall include, but need not
3 be limited to, institutions of higher education, school districts, and public
4 policy research and advocacy organizations.

5 (2) ANY RELEASE OF DATA PURSUANT TO SUBSECTION (1) OF THIS
6 SECTION MUST CONFORM TO THE REQUIREMENTS OF SECTION 22-2-310.

7 **SECTION 6.** In Colorado Revised Statutes, 22-2-111, **add** (4) as
8 follows:

9 **22-2-111. Commissioner of education - office - records -**
10 **confidential nature.** (4) ANY RELEASE OF DATA PURSUANT TO
11 SUBSECTION (3) OF THIS SECTION MUST CONFORM TO THE REQUIREMENTS
12 OF SECTION 22-2-310.

13 **SECTION 7.** In Colorado Revised Statutes, 25-1-1202, **amend**
14 (1) (I) as follows:

15 **25-1-1202. Index of statutory sections regarding medical**
16 **record confidentiality and health information.** (1) Statutory provisions
17 concerning policies, procedures, and references to the release, sharing,
18 and use of medical records and health information include the following:

19 (I) ~~Section~~ SECTIONS 22-1-123 (5) AND 22-2-310, C.R.S.,
20 concerning the protection of student data;

21 **SECTION 8. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2016 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.