Senate Bill No. 19

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Passed the Senate September 11, 2009

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Secretary of the Senate

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Passed the Assembly September 11, 2009

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Chief Clerk of the Assembly

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This bill was received by the Governor this _____ day

of _____, 2009, at _____ o'clock ___M.

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Private Secretary of the Governor

Corrected 9-16-09

CHAPTER ————

An act to amend Sections 10601, 10601.5, 10802, 10804, and 60900 of the Education Code, relating to education data.

SB 19, Simitian. Education data.

(1) Existing law establishes the California Education Information System, which consists of the California Longitudinal Pupil Achievement Data System (CALPADS) and the California Longitudinal Teacher Integrated Data Education System (CALTIDES). Existing law requires that data elements and codes included in the California Education Information System be maintained in compliance with specified provisions of law.

This bill would additionally require that data elements and codes included in the California Education Information System be maintained in compliance with any other applicable federal or state law that can be interpreted as protecting the privacy and confidentiality of individual pupils or certificated personnel.

(2) Existing law prohibits data in CALTIDES from being used either solely or in conjunction with data from CALPADS for purposes of pay, promotion, sanction, or personnel evaluation of an individual teacher or groups of teachers, or any other employment decisions related to individual teachers.

This bill would delete this prohibition. The bill would prohibit data in CALTIDES from being used in violation of any federal or state law that is intended to protect an individual's right to privacy or the confidentiality of an individual's personal information.

(3) Existing law requires the State Chief Information Officer to convene a working group representing specified entities to create a strategic plan to link education data systems and to accomplish specified objectives relating to the accessibility of education data. The State Chief Information Officer is required to deliver this strategic plan to the Legislature and the Governor no later than September 1, 2009.

This bill would require the plan to identify specific procedures and policies that would facilitate the sharing and transfer of data, and would change the date the plan is required to be delivered to

the Legislature and the Governor to January 1, 2010. The bill additionally would authorize these provisions to be implemented using federal grant funds received pursuant to the American Recovery and Reinvestment Act of 2009 through that act's provision of funds for statewide data systems under the federal Education Technical Assistance Act.

(4) Existing law requires the State Department of Education under CALPADS to contract for the development of proposals that will provide for the retention and analysis of longitudinal pupil achievement data. Existing law requires local educational agencies to retain individual pupil records for each test taker, including other data elements deemed necessary by the Superintendent, with approval of the State Board of Education, to comply with federal reporting requirements delineated in the federal No Child Left Behind Act of 2001.

This bill would, prior to the implementation of these provisions with respect to adding data elements to CALPADS for the purpose of complying with the American Recovery and Reinvestment Act of 2009, require the department to submit an expenditure plan to the Department of Finance, as specified. The bill would require the Department of Finance to provide to the Joint Legislative Budget Committee a copy of the plan within 10 days of receipt.

The bill also would make technical and clarifying changes.

The people of the State of California do enact as follows:

SECTION 1. Section 10601 of the Education Code is amended to read:

10601. (a) There has been developed by the department the California Education Information System, hereinafter in this chapter called "the system." The function of the system is to establish, conduct, and by continuous concern keep up to date a basic, integrated, statewide information system for education.

(b) The system includes both of the following:

(1) The California Longitudinal Pupil Achievement Data System pursuant to Chapter 10 (commencing with Section 60900) of Part 33, which maintains pupil data regarding demographic, program participation, enrollment, and statewide assessments, in addition to data contained in the California Basic Educational Data System, including certificated staff information collected through the

Professional Assignment Information Form prepared by the department.

(2) The California Longitudinal Teacher Integrated Data Education System developed pursuant to Section 10601.5, which enables analysis of workforce trends, evaluation of teacher preparation programs, and the monitoring of teacher assignments. The California Longitudinal Teacher Integrated Data Education System shall maintain data regarding the certificated workforce that is not maintained in the California Longitudinal Pupil Achievement Data System and consolidate data that is collected by state agencies and local educational agencies.

(c) Data elements and codes included in the system shall be maintained in compliance with all of the following:

(1) Chapter 6.5 (commencing with Section 49060) of Part 27 and any regulations adopted pursuant thereto.

(2) Section 49602.

(3) Section 56347.

(4) The Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(5) The federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) and any federal regulations adopted pursuant thereto.

(6) Any other applicable federal or state law that can be interpreted as protecting the privacy and confidentiality of individual pupils or certificated personnel.

(d) The department shall adopt regulations to implement this section.

SEC. 2. Section 10601.5 of the Education Code is amended to read:

10601.5. (a) The department, in collaboration with the Commission on Teacher Credentialing, shall contract for the development of a teacher data system to be known as the California Longitudinal Teacher Integrated Data Education System that is based on the results of the teacher data system feasibility study conducted pursuant to Item 6110-001-0890 of Section 2.00 of the Budget Act of 2005 (Chapter 38 of the Statutes of 2005). The purpose of the California Longitudinal Teacher Integrated Data Education System is to streamline processes, improve the efficiency of data collection by the department, the Commission on Teacher

Credentialing, and the Employment Development Department, and improve the quality of data collected from local educational agencies and teacher preparation programs. The California Longitudinal Teacher Integrated Data Education System shall be developed and implemented in accordance with all state rules and regulations governing information technology projects.

(b) The California Longitudinal Teacher Integrated Data Education System shall serve as the central state repository of information regarding the teacher workforce in the state for purposes of developing and reviewing state policy, identifying workforce trends, and identifying future needs regarding the teaching workforce. It shall also serve to provide high-quality program evaluations, including evaluation of the effectiveness of teacher preparation and induction, and to help improve professional development programs. Additionally, it shall promote the efficient monitoring of teacher assignments as required by state and federal law.

(c) The California Longitudinal Teacher Integrated Data Education System shall not include the names, social security numbers, home addresses, telephone numbers, or e-mail addresses of individual teachers.

(d) Data in the California Longitudinal Teacher Integrated Data Education System shall not be used in violation of any federal or state law that is intended to protect an individual's right to privacy or the confidentiality of an individual's personal information.

(e) The system shall be used to accomplish all of the following goals:

(1) Provide a means to evaluate all of the following:

(A) The effectiveness of teacher preparation programs, including, but not limited to, traditional fifth-year programs, university internship programs, and district-sponsored internship programs.

(B) Teacher workforce issues, including mobility, retention, and attrition.

(2) Streamline and improve the effectiveness and timeliness of assignment monitoring as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and by state law.

(3) Enable local educational agencies to monitor teacher assignments on demand.

(f) For purposes of implementing this chapter, including the legislative intent expressed in subdivision (b) of Section 10600, the system shall include all of the following information:

(1) Age profiles of teachers in the workforce.

(2) Projections of the number of retirees in the education system over the next 10 years throughout the state.

(3) Identification of subject matter fields that have the severest shortage of teachers.

(4) Geographic distribution of teachers by credential type.

(5) Present patterns of in-service education for teachers.

(g) The Commission on Teacher Credentialing and accredited teacher preparation programs shall participate in the system by providing available data regarding enrollment in credential programs, credentials issued in each specialization, and certificated persons in each specialty who are not employed in education, and by collaborating with the department in the design and preparation of periodic reports of teacher supply and demand in each specialty and in each geographic region of the state.

(h) The California Longitudinal Teacher Integrated Data Education System shall do all of the following:

(1) Utilize and maximize use of existing teacher databases.

(2) Maintain longitudinally linked data without including the names of teachers.

(3) Comply with all state and federal confidentiality and privacy laws.

(i) The Superintendent shall convene a working group to provide advice and guidance on the development and implementation of the system. The group shall include, but is not limited to, representatives from the Commission on Teacher Credentialing, the Department of Finance, the Secretary for Education, the Legislative Analyst's Office, the Employment Development Department, and representatives of local educational agencies, postsecondary educational institutions, researchers, teachers, administrators, and parents.

(j) The operation of the California Longitudinal Teacher Integrated Data Education System is contingent upon the appropriation of funds for purposes of this section in the annual Budget Act or other legislation.

SEC. 3. Section 10802 of the Education Code is amended to read:

10802. The department shall establish a process by which local educational agencies issue, maintain, and report information using the unique statewide pupil identifiers specified in paragraph (3) of subdivision (e) of Section 60900 for state and federally funded center-based child care and development programs under their purview. Except to the extent required by federal law, or as needed to ensure compliance with federal law, the department shall not require these center-based child care and development programs to implement or maintain unique pupil identifiers specified in paragraph (3) of subdivision (e) of Section 60900 until an appropriation for this purpose is provided in the annual Budget Act or another statute.

SEC. 4. Section 10804 of the Education Code is amended to read:

10804. (a) The State Chief Information Officer appointed pursuant to Section 11545 of the Government Code shall convene a working group representing, at a minimum, the state board, the Superintendent, the Chancellor of the California Community Colleges, the University of California, the California State University, and any other governmental entities that collect, report, or use individual pupil education data that would become part of the comprehensive education data system. The State Chief Information Officer shall form an advisory committee to the working group that includes school and district administrators, teachers and faculty, education program providers, policymakers, researchers, parents, and pupils.

(b) The working group convened pursuant to this section shall create a strategic plan to link education data systems from all segments and to accomplish all of the following:

(1) Provide an overall structural design for the linked education data systems.

(2) Examine current state education data systems.

(3) Examine the protocols and procedures to be used by state agencies in data processing, including, but not limited to, collecting, storing, manipulating, sharing, retrieving, and releasing data so as to enable each state agency to accurately and efficiently collect and share data with the other state agencies while complying with all applicable state and federal privacy laws.

(4) Identify specific procedures and policies that would be necessary to ensure the privacy of pupil record information so as

to meet both federal requirements and the higher expectations of privacy held by the state.

(5) Identify specific procedures and policies that would facilitate the sharing and transfer of data from one segment to another and ultimately to include linkages to workforce data.

(c) The strategic plan shall be delivered by the State Chief Information Officer to the Legislature and the Governor on or before January 1, 2010.

(d) This section may be implemented using federal grant funds received pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) through that act's provision of funds for statewide data systems under the federal Education Technical Assistance Act (20 U.S.C. Sec. 9601 et seq.).

SEC. 5. Section 60900 of the Education Code is amended to read:

60900. (a) The department shall contract for the development of proposals which will provide for the retention and analysis of longitudinal pupil achievement data on the tests administered pursuant to Chapter 5 (commencing with Section 60600), Chapter 7 (commencing with Section 60810), and Chapter 9 (commencing with Section 60850). The longitudinal data shall be known as the California Longitudinal Pupil Achievement Data System.

(b) The proposals developed pursuant to subdivision (a) shall evaluate and determine whether it would be most effective, from both a fiscal and a technological perspective, for the state to own the system. The proposals shall additionally evaluate and determine the most effective means of housing the system.

(c) The California Longitudinal Pupil Achievement Data System shall be developed and implemented in accordance with all state rules and regulations governing information technology projects.

(d) The system or systems developed pursuant to this section shall be used to accomplish all of the following goals:

(1) To provide school districts and the department access to data necessary to comply with federal reporting requirements delineated in the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(2) To provide a better means of evaluating educational progress and investments over time.

(3) To provide local educational agencies information that can be used to improve pupil achievement.

(4) To provide an efficient, flexible, and secure means of maintaining longitudinal statewide pupil level data.

(e) In order to comply with federal law as delineated in the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall retain individual pupil records for each test taker, including all of the following:

(1) All demographic data collected from the STAR Program test, high school exit examination, and English language development tests.

(2) Pupil achievement data from assessments administered pursuant to the STAR Program, high school exit examination, and English language development testing programs. To the extent feasible, data should include subscore data within each content area.

(3) A unique pupil identification number to be identical to the pupil identifier developed pursuant to the California School Information Services, which shall be retained by each local educational agency and used to ensure the accuracy of information on the header sheets of the STAR Program tests, high school exit examination, and the English language development test.

(4) All data necessary to compile reports required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), including, but not limited to, dropout and graduation rates.

(5) Other data elements deemed necessary by the Superintendent, with approval of the state board, to comply with the federal reporting requirements delineated in the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), after review and comment by the advisory board convened pursuant to subdivision (h). Prior to the implementation of this paragraph with respect to adding data elements to the California Longitudinal Pupil Achievement Data System for the purpose of complying with the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the department shall submit an expenditure plan to the Department of Finance detailing any administrative costs to the department and costs to any local educational agency, if applicable. The Department of Finance shall provide to the Joint Legislative Budget Committee a copy of the expenditure plan within 10 days of receipt of the expenditure plan from the department.

(f) The California Longitudinal Pupil Achievement Data System shall have all of the following characteristics:

(1) The ability to sort by demographic element collected from the STAR Program tests, high school exit examination, and English language development test.

(2) The capability to be expanded to include pupil achievement data from multiple years.

(3) The capability to monitor pupil achievement on the STAR Program tests, high school exit examination, and English language development test from year to year and school to school.

(4) The capacity to provide data to the state and local educational agencies upon their request.

(g) Data elements and codes included in the system shall comply with Sections 49061 to 49079, inclusive, and Sections 49602 and 56347, with Sections 430 to 438, inclusive, of Title 5 of the California Code of Regulations, with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), and with the federal Family Education Rights and Privacy Act (20 U.S.C. Sec. 1232g), Section 1242h of Title 20 of the United States Code, and related federal regulations.

(h) The department shall convene an advisory board consisting of representatives from the state board, the Secretary for Education, the Department of Finance, the State Privacy Ombudsman, the Legislative Analyst's Office, representatives of parent groups, school districts, and local educational agencies, and education researchers to establish privacy and access protocols, provide general guidance, and make recommendations relative to data elements. The department is encouraged to seek representation broadly reflective of the general public of California.

(i) Subject to funding being provided in the annual Budget Act, the department shall contract with a consultant for independent project oversight. The Director of Finance shall review the request for proposals for the contract. The consultant hired to conduct the independent project oversight shall twice annually submit a written report to the Superintendent, the state board, the advisory board, the Director of Finance, the Legislative Analyst, and the appropriate policy and fiscal committees of the Legislature. The report shall include an evaluation of the extent to which the California Longitudinal Pupil Achievement Data System is meeting

the goals described in subdivision (d) and recommendations to improve the data system in ensuring the privacy of individual pupil information and providing the data needed by the state and school districts.

(j) This section shall be implemented using federal funds received pursuant to the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), which are appropriated for purposes of this section in Item 6110-113-0890 of Section 2.00 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002). The release of these funds is contingent on approval of an expenditure plan by the Department of Finance.

(k) For purposes of this chapter, a local educational agency shall include a county office of education, a school district, or charter school.

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CORRECTIONS:

Text—Page 3.

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Approved _____, 2009

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                                    Governor