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MEMORANDUM

To: Chairman Abrams
Members of the Senate Committee on Education

From: Jason B. Long, Senior Assistant Revisor

Date: January 28, 2016

Subject: SB 342 – Student Online Personal Protection Act

Senate Bill No. 342 creates the Student Online Personal Protection Act (SOPPA). Generally, this bill prohibits a private business from commercially using personally identifiable student information or disclosing such student information when that information is collected through an educational online product offered by the business.

Section 2 of the bill contains relevant definitions. First, “educational online product” is defined as an internet website, online service, online application, or mobile application that is primarily used, designed, and marketed for educational purposes. Businesses that fall within the scope of the Act are referred to as “operators,” and is defined as the operator of an educational product with actual knowledge that the product is used, designed, and marketed for educational purposes. Section 2 also defines “student information” and provides a list of what is deemed “personally identifiable information.” Finally, the bill defines “targeted advertising” as advertisements selected based on information obtained or inferred over time from a student’s online behavior or student information.

Section 3(a) provides the general prohibitions on use of student information. The operator is generally prohibited from targeting advertising, amassing student profiles, selling or renting the information to a third party, or disclosing the information. Starting on page 3, in line 9, the bill provides a list of acceptable disclosures by the operator. These include furtherance of an educational purpose, compliance with statutory and regulatory requirements, compliance with a court order, to protect the safety or integrity of the educational online product, its users and others, at the request of the student or the student’s parent or legal guardian, as a part of a service agreement with a service provider if the agreement contains the required nondisclosure

provisions, or as a part of transferred assets made through a business acquisition transaction.

Section 3(c) also permits disclosure of student information for research purposes overseen by a school district or the Kansas Department of Education, upon request by a school district or state agency for educational purposes, or as required by state or federal law.

Section 3(b) requires the operator to maintain reasonable security procedures and practices to protect the student information from unauthorized access. It also requires the operator to delete student information within a reasonable time upon the request of the school district.

Section 3(d) provides acceptable uses of student information by the operator. Such uses include maintenance and improvement of the educational online product, suggesting additional educational content or services, responding to a student's request for information, or for marketing and development purposes if no the information is not associated with an identified student.

Section 3(e) provides further clarification on the scope of the Act. The SOPPA is not intended to apply to general audience online products, service providers providing internet connectivity, or online stores.

If enacted the provisions of SB 342 would become effective on July 1, 2016.