

## Testimony on Senate Bill No. 342

Mr. Chairman and members of the committee, thank you for the opportunity to provide testimony in opposition to this bill.

The description of the bill is, “creating the student online personal protection act.”

Does it offer personal online student protection?

A student’s use of online product results in the creation or gathering of student information and persistent unique identifiers.

Sec. 3 (1) has language to curb targeted advertising, with qualifiers.

Sec. 3 (2) has language to not “knowingly” use information, except for “educational purposes”. The operator may “amass a profile about a student” as long as it is for educational purposes.

Sec. 3 (3) initially states that student information may not be sold or rented to a third party, except under situations due to purchases, mergers or acquisitions. Note: “Student information” is considered an **asset** of the operator.

Sec. 3 (4) states student information may not be disclosed, unless (A) for furtherance of an educational purpose, (B) to comply with laws and regulation and protect the operator against liability, (C) in response to a court order, (D) to protect users, (E) by request of student or parent/legal guardian, (F) to a service provider for a contracted service (within some parameters), and (G) in the transfer of assets.

“Educational purposes”, in this bill, are determined by the schools or state/federal agencies or companies, not the parent/student. “Educational purposes” is so broad, practically anything can qualify.

The bill states that operators must have reasonable security measures, however, these are not defined, so reasonable will be in the eye of the beholder. The operator is to also delete information within a reasonable period of time, whatever that is.

Student information may be disclosed for numerous reasons in sec (c).

Sec (d) lists numerous actions the operator is not prohibited from doing, including sec (5) suggesting to a student additional content or services related to an educational purpose or employment opportunity.

Sec (e), (2) expressly permits the operator to use student information for adaptive learning or customized student learning.

This bill is limited in its commercial aspects of security.

This bill does not allow student/parent opt out.

This bill does not provide for full disclosure of how the service or product gathers or creates information as a result of use of the service or product, with subsequent explicit student/parent permission being

required in order for the student to use the service or product. Non-aggregate data should not be used in any circumstances without full disclosure of how it will be used and the express approval of the parent.

Any individual data must be de-identified.

Enactment of this legislation will just give companies like Microsoft the legal authority and protection to use student data for its purposes.

The “student information” includes: discipline records, juvenile records, evaluation, criminal records, health records, biometric information, social security number, food purchases, political affiliations, search activity, voice recordings..... We’ve gone far beyond educational data.

***\*Unprotected by HIPPPA***

***\*Collectible and Sharable WITHOUT parent consent***

***\*No particular restriction on access***

***\*No time certain for destroying of data (as in the case of juvenile court records)***

Student personal property is not being protected. Parents should certainly be required to grant permission for this type of information to be collected.

It’s simple. Information like courses, grades, and attendance are expected pieces of data that a school should have. Any communication or use of this information beyond the school building should de-identify the data. Any other types of data collection on a student or data resulting from a student’s use of technology should be fully disclosed to the parent, with the parent choosing whether to grant permission for the collection and participation.

This isn’t the first time Microsoft founder Bill Gates has been down this road. Bill Gates is a known proponent of providing schools better ways to collect, gather and analyze data and facilitating the enormous impact big data can have. The Bill and Melinda Gates Foundation helped start a company called InBloom. InBloom aimed to streamline personalized learning — analyzing information about individual students to customize lessons to them — in public schools. It intended to use big data to transform education by providing tools to entrepreneurs, schools and districts. But the program was strongly opposed by parents and privacy advocates. Are you aware that Pre-K to 12 education is a multi-billion dollar business to technology software providers? It hasn’t even been proven that student learning is improved through the employment of technology solutions. Perhaps this should also be considered in the mandated data collection occurring as a result of states implementing Common Core standards, known in Kansas as Kansas College and Career Ready Standards.

Companies want to unlock student data creating applications that can interface with the data and leverage it to create education tools. Standardized, open-source data architectures are critical to facilitating growth in this area.

No one is begrudging the free market and companies making money. However, companies not fully disclosing to parents how their products and systems work, including how and what student data will be used is not acceptable. More importantly, parents, not teachers, school administrators or state agencies, should be allowed to determine whether their child is allowed to use school technology and how any resulting data is to be used.

All of this has been a long time in the making. In July, 2009, Bill Gates stated the following in a presentation at the National Conference of State Legislatures, “When the tests are aligned to the common standards, the curriculum will line up as well, and it will unleash a powerful market of people providing services for better teaching. For the first time, there will be a large uniform base of customers looking at using products that can help every kid learn and every teacher get better.” The marketability – profitability – of technology is the overriding reason for Bill Gates’ substantial financial investment in promoting common standards, common curriculum, and common assessments. It enables the profitability of technology in the education field. This was fully laid out by an education director with the Gates Foundation in a speech, A Forum on Education, given in 2008 (emphasis added):

“When schools and districts around the country align standards and curriculum and assessment” and “we expand our data systems”, we “throw open the doors to innovation”.

“Aligning standards and assessments will help us tap **the power of market forces** to create breakthrough tools and next generation models of teaching and learning” (i.e. **curriculums**, computer based learning products, etc.).

“Fragmented standards make it **hard for business to sell** into the education market.” “Let’s say a software genius...develops an amazing tool that teaches” and kids barely notice because “it is so entertaining.”

The software genius “tries to sell it”, but because “everyone has different standards, different assessments”, he has to “repeat the process a thousand times because there’s **no wide scale market**.” He finds it “more advantageous to just sell to another industry.”

“We have to make sure our schools and our students get the benefits of the innovative genius in this country.”

“To drive innovation” in education, “you need some kind of **functioning market**.”

“We will advocate for a new level of **federal involvement** in research and development.”

“We will create incentive funds for products that can develop college-ready competencies.”

“Imagine the competition we could create if all states demanded materials aligned to common standards: we would get better tests, better textbooks, better teaching tools, and ultimately, better student performance”, so says the software genius.

“We will **incubate a next generation**”.

“We have to do it together, district by district, state by state, across the country, by design.”

**Support the individual right to life, liberty and pursuit of happiness.**

**All we produce or own, in **any** form or fashion, is property.**

Private property is absolutely essential for liberty.

“Every man has a property in his own person. This nobody has any right to but himself. The labour of his body, and the work of his hands, (including his own thoughts) we may say, are properly his.” He continues: “The great and chief end therefore, of men uniting into Commonwealths, and putting themselves under Government, is the Preservation of their Property.”

–John Locke

Students ARE their data.

They should own it, to protect their life and liberty and to pursue happiness.

- Why don't parents/students own their own data?
- If it's not valuable, then why does everybody want it?
- How are children protected from the theft of their data for manipulation and profit by others?
- Why aren't parents allowed to protect their children's valuable data, and use it for their own profit and improvement in their lives?

If you think that Microsoft has brought and promoted this legislation for altruistic reasons, you are kidding yourself. They are in this for the benefit and profitability of their company over, not only other companies, but also the person from whom they are taking the data.

Respectfully,

Lisa Huesers