



**KANSAS ASSOCIATION
OF SCHOOL BOARDS**

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Testimony before the
Senate Education Committee

on

SB 342 - Creating the Student Online Personal Protection Act

by

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Mr. Chairman and Members of the Committee:

Thank you for the opportunity to address the committee concerning **SB 342**. This bill outlines some restrictions as well as expands authority in certain areas for operators of educational online products to use personally identifiable student information maintained within web-based educational products.

KASB appears as neutral on this bill, provided that one amendment be added as described below. While we do not believe this bill is necessary for the reasons set forth in the attached memo, we wanted to draw your attention to one significant area of concern.

This is an area of the law that is already restricted, in part, by the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C.A. § 1232g and regulations promulgated thereunder), Kansas's Student Data Privacy Act ("SDPA") (K.S.A. 72-6215 *et seq.*), and the Children's Online Privacy Protection Act ("COPPA") (15 U.S.C.A. § 6501 *et seq.*), so our legal and advocacy staff has dedicated a great deal of time and study into determining how the proposed act would impact our schools and fit within the existing legal framework.

While this bill was likely not intended to impact unified school districts or their responsibilities regarding protection of student information, the broadly drafted definitions in Section 2 presently leave open the possibility of application to school districts and district staff as operators of educational online products. If school districts and their staff were deemed operators for this act's application, there are areas where the authority granted for operators to have access to a wider subset of student information and for a more expansive list of purposes would conflict with district responsibilities under both FERPA and

SDPA with regard to dissemination of data and would not satisfy the rigid data sharing agreement requirements under SDPA.

We have gone into these concerns in more detail in the memo accompanying your materials and will not dwell on them for brevity's sake before the committee now. Although discrepancies in the relevant legal requirements may appear slight, when our district's' receipt of federal education dollars depend upon our compliance with FERPA, and violations of SDPA may result in injunction, we simply cannot afford to bend our rules.

For this reason, our materials also include a simple, requested amendment to this bill, which would ensure our districts will not be included in the definition of "operator" for this act's application. With the adoption of clarifying language such as this, we are comfortable with keeping a neutral position with regard to this bill's passage.

In conclusion, we hope the testimony, memo, and draft amendment language proffered to the committee today will be helpful. Thank you for your time and consideration. Angela Stallbaumer, our KASB Policy Specialist/Attorney, and myself will gladly stand for any questions.