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ROLL NUMBER

DESCRIPTION

1134



2007 HOUSE EDUCATION



HB 1134



2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1134

House Education Committee

Check here for Conference Committee

Hearing Date: **9 January 07**

Recorder Job Number: **770**

Committee Clerk Signature	<i>Jan Prindle</i>
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Minutes:

Wayne Kutzer, director of the Department of Corrections and Technical Education, introduced the bill. **(Testimony Attached.)** The bill cleans up old references and allows FINDET member agencies to share individual data and clarifies how that information can be used and released by FINDET. He presented an amendment to include in page one, line 18 the words unless prohibited by federal law. (Attached.)

Representative Solberg: What information would be included?

Kutzer: Individual grades a student gets, something that would identify an individual. It doesn't have to be educational, social security numbers for examples. All the data that we collect now for the reports we have to file with state and federal agencies that require us to follow a person all through the educational system and into the world of work. None of that information is released, but we need it in FINDET in order to produce those reports.

Vice Chairman Meier: The information shared can only be shared among the participating entities. Right?

Kutzer: Yes, that's correct.

Representative Mueller: Can a student opt out? Is that an option for them?

Kutzer: Can opt out of the use of their social security number but cannot otherwise opt out.

Larry Anderson, director of Workforce and Unemployment Insurance Programs for Job Service North Dakota testified in favor of the bill. (**Testimony Attached.**) One of the essential sources of information Job Services derives from FINDET is the wage record information in the operation and administration of the Unemployment Insurance Tax and Benefit programs.

Representative Mueller: Let's go back to the specific information on individuals. Are we to understand that in the FINDET system, that any of the agencies can find out what individuals are earning, achieving as grades or is it an aggregate report that is generated.

Anderson: Individual agencies, and I'll use Job Service as an example, in administering the federal workforce training program have specific performance accountability standards that have to be met in utilization of those federal dollars that come to our state. If we enroll an individual in an educational or training program of some nature to benefit him in some way to become self-sufficient, we as a participating agency can individually identify the outcome of a person. When we produce reports for public policymakers, then we provide aggregate data.

Representative Mueller: Can another get that information? Does the individual have a say in it?

Anderson: Individuals, in acknowledging receipt of job training resources, has given authorization to utilize that information for reporting purposes on him specifically.

Chairman Kelsch: All the necessary safeguards have been built in when the FINDET system was developed.

There was no opposition to HB 1134.

Chairman Kelsch closed the hearing on HB 1134. She asked the committee's wishes.

Representative Herbel moved the amendment presented by Mr. Kutzer.

Representative Solberg seconded the amendment.

A voice vote was taken on the amendment: **Yea: 12, Nay: 0, Absent: 1,**

(Representative Haas).

Vice Chairman Meier moved Do Pass as Amended.

Representative Wall seconded.

A Roll Call vote was taken. **Yea: 11, Nay: 1, Absent: 1, (Representative Haas).**

Representative Herbel will carry the bill.

78169.0101
Title.0200

Adopted by the Education Committee
January 9, 2007

House Amendments to HB 1134 (78169.0101) - Education Committee 01/09/2007

Page 1, line 18, after "and" insert ", unless prohibited by federal law,"

Renumber accordingly

Date: 9 Jan 07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1134

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment

Motion Made By Herbel Seconded By Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep Hanson		
V Chairman Meier			Rep Hunskor		
Rep Haas			Rep Mueller		
Rep Herbel			Rep Myxter		
Rep Johnson			Rep Solberg		
Rep Karls					
Rep Sukat					
Rep Wall					

Total Yes 12 No 0

Absent Rep Haas

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

line 18
Page 1 add "unless prohibited by federal law."

Date: 9 Jan 07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1134

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do Pass as amended

Motion Made By Dreier Seconded By Wall

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson	✓	
V Chairman Meier	✓		Rep Hunsakor	✓	
Rep Haas	0		Rep Mueller		✓
Rep Herbel	✓		Rep Myxter	✓	
Rep Johnson	✓		Rep Solberg	✓	
Rep Karls	✓				
Rep Sukat	✓				
Rep Wall	✓				

Total Yes 11 No 1

Absent 1 Rep Haas

Floor Assignment Herbel

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 10, 2007 10:07 a.m.

Module No: HR-04-0390
Carrier: Herbel
Insert LC: 78169.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1134: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1134 was placed on the Sixth order on the calendar.

Page 1, line 18, after "and" insert ", unless prohibited by federal law,"

Renumber accordingly

2007 SENATE EDUCATION

HB 1134

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1134

Senate Education Committee

Check here for Conference Committee

Hearing Date: March 5, 2007

Recorder Job Number: 4331, 4333, 4359

Committee Clerk Signature



Minutes:

Chairman Freborg opened the hearing on HB 1134, a bill relating to release and use of information provided to the follow-up information on North Dakota education and training system. All members were present.

Wayne Kutzer, Director of the Department of Career and Technology Education, testified in favor of the bill. (Written testimony attached)

Chairman Freborg closed the hearing on HB 1134.

Chairman Freborg said he is interested in how bills get through the House and then have significant changes in the Senate.

Senator Flakoll said he should have asked if they tried these amendments in the House.

Senator Gary Lee said it seems like double talk.

Senator Flakoll said the changes are suggested by legislative council, lets ask them.

Senator Taylor said its like a lot of student data. They can't release data if it identifies the individual but they can produce aggregate data.

Senator Bakke said if legislative council did the amendment, they did not put their numbers on it.

Senator Flakoll said its like No Child Left Behind data, with small numbers it could be one or two kids in a class and can't release it because all 5th graders could be 1 person.

Senator Taylor said the amendment seems straight forward, we need a technical briefing.

Chairman Freborg said legislative council usually numbers their amendments, he doesn't think they prepared it.

Senator Flakoll said Wayne Kutzer said it was suggested by legislative council.

Senator Gary Lee said this is an agency bill, legislative council did not have anything to do with the content.

Chairman Freborg said we should get someone from council down here after the session.

LeaAnn Schneider, Attorney General's office, appeared to answer questions about the

amendments. She is the legal advisor for the Department of Career and Technology

Education. Current law says FINDET can only use personally identifiable information to

produce data. Career and Technology Education and other state agencies that use FINDET

wanted to be able to use personally identifiable information from FINDET for state and federal

reporting. They wanted to be able to receive personally identifiable information for that

purpose. In the engrossed bill, lines 18 – 20, are the main focus of the amendment. The last

phrase, "may not be used for any other purpose" was the impetus behind the amendments

that are before the committee now. Blaine Nordwall, Department of Human Services, had

concerns about that last phrase because he felt it would limit their use of their own personally

identifiable information for their own purposes. The amendment clarifies that and doesn't limit

use by the entity that first gave them the information. The other minor thing, the North Dakota

Occupational Information Coordinating Committee no longer exists so the amendment is to just

refer to FINDET.

Senator Taylor said we are naming FINDET in the proposed amendment, otherwise Human Services thought they were caught up in this? Are they a participating agency in FINDET?

Ms. Schneider said yes, they are.

Senator Bakke asked if this protects people from identity theft?

Ms. Schneider said no, the starting point with this language is a federal law called FERPA which limits institutions of higher education and schools from releasing personally identifiable information about students to anyone including state agencies.

Senator Bakke asked if this goes against FERPA?

Ms. Schneider said no. FERPA authorizes release of personally identifiable information without notice to student or parent under very limited circumstances. One of them is to authorized representatives of state educational agencies in connection with an audit or evaluation of state education programs. Numerous agencies, not just educational agencies, share information with FINDET, so the law is drafted in case other laws apply to other agencies.

Blaine Nordwall, Director of Economic Assistance Policy, Department of Human Services, appeared to answer questions. The language completely inadvertently restricted what they could do with the information they had generated and given to FINDET. It would have precluded them from doing what they had originally gathered the information for and they would be obliged to withdraw from participation in FINDET.

Senator Flakoll asked if the amendment was proposed in the House.

Mr. Nordwall said no, the bill was prefled and moved quickly in the House and he missed it.

Senator Taylor moved the amendments proposed by Wayne Kutzer, seconded by Senator Flakoll.

The motion passed 5- 0.

Senator Taylor moved a Do Pass As Amended on HB 1134, seconded by Senator Flakoll.

The motion passed 5-0. Senator Taylor will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1134

Page 1, line 9, after "system" insert "(FINDET)", after the period insert "1.", remove "information", overstrike "provided", and remove "by"

Page 1, line 10, remove "participating agencies", and overstrike "to"

Page 1, line 11, after "system" insert "may not release information provided to it"

Page 1, line 12, after "purposes" insert "by participating agencies", overstrike "may", and remove "not be released"

Page 1, line 13, replace "Personally" with "2. The followup information on North Dakota education and training system may use personally", remove "may", and overstrike "be used"

Page 1, line 18, replace "and, unless" with "that may be provided to participating agencies. 3. Unless", after the first "by" insert "state or", and replace "may be used by" with "the followup information on North Dakota education and training system may provide personally identifiable information to participating agencies, but may not provide it to any other person. 4. Unless prohibited by state or federal law,"

Page 1, line 19, after "agencies" insert "may use personally identifiable information" and replace the second "and" with ". Personally identifiable information provided by a participating agency to the followup information on North Dakota education and training system that the followup information on North Dakota education and training system releases to another participating agency"

Page 1, line 20, after "purpose" insert "by that other participating agency without the consent of the identified individual or as otherwise authorized by law"

Renumber accordingly

Wayne Kuetzer 3/5/07



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1134

Page 1, replace lines 7 through 20 with:

~~"44-04-18.14. Certain records of occupational information coordinating committee—Exempt Information provided to the followup information on North Dakota education and training system. Records provided to~~

1. Except as provided in this section, the North Dakota occupational information coordinating committee by any person for use in the followup information on North Dakota education and training system may not release information provided to it for research or statistical purposes may only be used by a participating agency in any manner that identifies an individual.
2. The followup information on North Dakota education and training system may use personally identifiable information to prepare produce aggregate data compilations that do not identify any individual and may not be disclosed to the public by the occupational information coordinating committee. A request for disclosure of the records under section 44-04-18 or section 6 of article XI of the Constitution of North Dakota must be directed to the person or entity that has provided the records to the occupational information coordinating committee statistics that may be provided to a participating agency.
3. Unless prohibited by state or federal law, the followup information on North Dakota education and training system may provide personally identifiable information to a participating agency, but may not provide that information to any other person.
4. Unless prohibited by state or federal law, a participating agency may use personally identifiable information to fulfill its obligations for state and federal statistical reporting. Personally identifiable information provided by a participating agency to the followup information on North Dakota education and training system which the followup information on North Dakota education and training system releases to another participating agency may not be used or released for any other purpose by that other participating agency without the consent of the identified individual or as otherwise authorized by law."

Renumber accordingly

Date: 3/5/07
Roll Call Vote #: /

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.**

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken More Amendments from Wayne Kutzler

Motion Made By Sen. Taylor Seconded By Sen. Flakoll

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	✓	
Senator Flakoll	✓		Senator Bakke	✓	
Senator Gary Lee	✓				

Total Yes 5 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1134, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1134 was placed on the Sixth order on the calendar.

Page 1, replace lines 7 through 20 with:

~~"44-04-18.14. Certain records of occupational information coordinating committee—Exempt Information provided to the followup information on North Dakota education and training system. Records provided to~~

1. Except as provided in this section, the North Dakota occupational information coordinating committee by any person for use in the followup information on North Dakota education and training system may not release information provided to it for research or statistical purposes may only be used by a participating agency in any manner that identifies an individual.
2. The followup information on North Dakota education and training system may use personally identifiable information to prepare produce aggregate data compilations that do not identify any individual and may not be disclosed to the public by the occupational information coordinating committee. A request for disclosure of the records under section 44-04-18 or section 6 of article XI of the Constitution of North Dakota must be directed to the person or entity that has provided the records to the occupational information coordinating committee statistics that may be provided to a participating agency.
3. Unless prohibited by state or federal law, the followup information on North Dakota education and training system may provide personally identifiable information to a participating agency, but may not provide that information to any other person.
4. Unless prohibited by state or federal law, a participating agency may use personally identifiable information to fulfill its obligations for state and federal statistical reporting. Personally identifiable information provided by a participating agency to the followup information on North Dakota education and training system which the followup information on North Dakota education and training system releases to another participating agency may not be used or released for any other purpose by that other participating agency without the consent of the identified individual or as otherwise authorized by law."

Renumber accordingly

2007 TESTIMONY

HB 1134

HB 1134
9 Jan 07

**House Education Committee
January 9, 2007
Testimony on HB 1134**

Madam Chair and members of the Education Committee, my name is Wayne Kutzer, Director of the Department of Career and Technical Education.

I am bringing HB 1134 before you as one of the participating agencies in FINDET - Follow-up Information on North Dakota Education and Training. There are other representatives from member agencies here today as well. The list of the agencies participating in FINDET is at the end of this testimony and attached are excerpts of the current law so that you have a frame of reference to the different sections of law this bill addresses.

In Section 1, HB 1134 cleans up old references and allows agencies to share individual data and how that information can be used and released by FINDET.

On lines 7 to 9, the reference to the "occupational information coordinating committee" is old and does not exist anymore. It is replaced with the Follow-up Information on North Dakota Education and Training.

Lines 9 to 13 prohibit release of any information, provided to FINDET by member agencies, that identifies an individual, but allows FINDET to use that information for research and statistical purposes.

The deleted language in this bill did not allow FINDET to share personal identifiable language with member agencies. In other words, FINDET could only share aggregate data or reports which did not identify individual data. While this may have worked well in the past, the current level of accountability at both the state and federal level requires a more comprehensive collection technique. When considering the need for common information and the duplication of

processes it quickly becomes evident that there is a greater need to share data to produce necessary cross agency reports. The suggested changes will enable data collected by FINDET from one or more agencies to be used by participating agencies, eliminating the need to ask for that same information multiple times.

Lines 18 to 20 explain that identifiable information may be used by participating agencies to produce state and federal reports and may not be released for any other purpose.

There are also federal laws that may affect some agencies differently which restrict how data can be shared that is not mentioned in this bill. For example, the Family Educational Rights and Privacy Act, referred to as FERPA, does not allow the sharing or release of individual student information or records outside of educational agencies. Within the University System, the Department of Public Instruction and the Department of Career and Technical Education we can share student data. However, student data cannot be released other than in aggregate reports that do not contain personally identifiable information.

In Section 2 the only change is in lines 2 and 3 which again deletes the occupational information and coordinating committee and replaces it with Follow-up Information on North Dakota Education and Training. This section allows Job Service ND to share unemployment insurance information with FINDET which provides key elements in our ability to measure the effectiveness of education and training. With this kind of data we could determine status of employment, as well as income levels.

All of the member agencies are keenly aware of the need to protect individual data; a data security audit was recently completed for FINDET by the Information Technology Department and additional measures have been taken to protect and secure data. All data is stored in an off-line environment, making it virtually impossible for hackers to access or transfer data. Data

collected from agencies is hand carried by CD or flash drive, eliminating other concerns of inappropriate access to sensitive data. Once all data is transferred, all transfer files are destroyed.

Madam Chair and members of the committee, this bill not only cleans up old language but also helps build a data resource that will help eliminate duplicate requests for information from the same entity. This concludes my testimony and I ask for a Do Pass on HB 1134.

I will be glad to answer any questions that you may have.

FINDET participating agencies

Economic Development and Finance Division, at the North Dakota Department of Commerce - Leigh Ann Huether, Team Leader - Research Division

Job Service North Dakota - Larry Anderson, Director, Office of Programs and Unemployment Insurance

Department of Public Instruction - Anita Decker, Director of Approval and Accreditation

North Dakota Department of Career and Technical Education - Wayne Kutzer, State Director

Vocational Rehabilitation Services- Yvonne Smith, Director - Disability Services Division, Dept. of Human Services

North Dakota University System - Julie Schepp, Director of Research, Academic Affairs Associate

North Dakota Workforce Development Division, Department of Commerce - Jim Hirsch, Director - Workforce Development Division

Student Loans of North Dakota at the Bank of North Dakota, Julie Kubisiak, Student Loans of North Dakota Director

Reference: HB 1134

**ARTICLE XI
GENERAL PROVISIONS**

Section 6. Unless otherwise provided by law, all records of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours.

**CHAPTER 44-04
DUTIES, RECORDS, AND MEETINGS**

44-04-18.14. Certain records of occupational information coordinating committee -

Exempt. Records provided to the North Dakota occupational information coordinating committee by any person for use in the followup information on North Dakota education and training system for research or statistical purposes may only be used to prepare aggregate data compilations that do not identify any individual and may not be disclosed to the public by the occupational information coordinating committee. A request for disclosure of the records under section 44-04-18 or section 6 of article XI of the Constitution of North Dakota must be directed to the person or entity that has provided the records to the occupational information coordinating committee.

**TITLE 52
SOCIAL SECURITY
CHAPTER 52-01**

DEFINITIONS AND GENERAL PROVISIONS

52-01-03. Disclosure of information.

1. Except as otherwise provided in this section, information obtained from any employing unit or individual pursuant to the administration of the North Dakota Unemployment Compensation Law and determinations as to the benefit rights of any individual must be held confidential and may not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or claimant's legal representative must be supplied with information from the records of the unemployment insurance division, to the extent necessary for the

proper presentation of the claimant's claim in any proceeding under the North Dakota Unemployment Compensation Law with respect to the claim.

2. Subject to restrictions as the bureau by rule may prescribe, the information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the bureau of internal revenue of the United States department of the treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon a request, the bureau shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to further benefits under the North Dakota Unemployment Compensation Law. The bureau may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association, rendered pursuant to the North Dakota Unemployment Compensation Law, and in connection with the request, may transmit any report or return to the comptroller of the currency of the United States as provided in subsection c of section 3305 of the federal Internal Revenue Code. The bureau shall request and exchange information for purposes of income and eligibility verification to meet the requirements of section 1137 of the Social Security Act. Job service North Dakota may enter into memoranda of understanding with the United States census bureau to furnish unemployment insurance data to the census bureau and for sharing of information with job service North Dakota.
3. Job service North Dakota may provide workforce safety and insurance, the labor commissioner, the driver's license division of the department of transportation, the department of human services, the department of commerce, the state tax commissioner, and the North Dakota occupational information coordinating committee with information obtained pursuant to the administration of the unemployment insurance program, and may enter into interagency agreements with those entities for the exchange of information that will enhance the administration of the unemployment insurance program. Any information furnished pursuant to this subsection or pursuant to interagency agreements authorized by this subsection is to be used for governmental purposes only.
4. The bureau may provide any state agency or a private entity with the names and addresses of employing units for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3.

HB 1134
9 Jan 09

House Bill 1134

Testimony of Larry D. Anderson
Job Service North Dakota
before the
House Education Committee
Representative RaeAnn G. Kelsch, Chair

Tuesday, January 9, 2007

Madam Chair and Members of the House Education Committee, I am Larry Anderson, the Director of Workforce and Unemployment Insurance Programs for Job Service North Dakota. I am here today to support HB 1134. This bill provides for the sharing of information from various agencies and establishes a central clearinghouse for Follow-up Information for North Dakota Education and Training (FINDET) programs. FINDET assists the participating agencies to meet the myriad of federal reporting requirements associated with the receipt of resources to provide for education, employment, training, and human services programs. FINDET is also being used as a mechanism by our state legislature to provide for performance and accountability reporting for policy makers of our state. Madam Chair and Members of the Committee, in a time of diminishing federal resources and unparalleled demand for quality education training and employment programs, we need a tool like FINDET to meet the information needs that this aggregation of the data from several agencies can provide.

FINDET was created with an interagency agreement in 1993. When it was established in 1993, it was administratively assigned to Job Service North Dakota with a separate governance structure from participating agencies. There is an effort at this time amongst participating agencies to bring the FINDET effort to a new level of reporting capabilities. This bill, amongst other things, updates the language and sets the stage for making the