

2019 HOUSE EDUCATION COMMITTEE

HB 1348

2019 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau Room, State Capitol

HB 1348
1/23/2019
31255

- Subcommittee
 Conference Committee

Committee Clerk: Bev Monroe

Explanation or reason for introduction of bill/resolution:

Relating to the statewide longitudinal data system committee and biennial training for individuals who have access to statewide longitudinal data system

Minutes:

Attachment 1, 2, 3

Chairman Owens: Opened the hearing on HB 1348.

Vice Chairman Cynthia Schreiber-Beck: (See Attachment 1)

Chairman Owens: Any others in favor?

Russ Ziegler, NDCEL: 3:50 (See Attachment 2)

Chairman Owens: Any questions from the committee? Anyone testifying in opposition?

Rosi Kloberdanz, Director, ND Educational Technology Council ITD: 6:30(See Attachment 3) 11:00

Rep. Mary Johnson: Is there no requirement within FERPA requiring X number of training years? They wouldn't be violating federal code if this was implemented?

Ms. Kloberdanz: In my research, the guidance that the federal law provides is that annual training is provided. I did find information on what happens if there is a violation and it is sent to the Department of Education. What happens then is that they do their investigation of any data that was disclosed inadvertently or nonconsensually. The school, institution or agency is required to submit reports, informational policies and procedures, annual notifications, training materials and other information necessary to carry out the office's enforcement responsibilities under the act. If there is a violation and it goes to the US Department of Education, they will question you as to what the annual notifications are regarding FERPA and what are the training requirements.

Rep. Mary Johnson: Is it a common practice within that area to provide the annual training? Do most states comply with that federal guideline?

Ms. Kloberdanz: (13:00) Yes, many schools (37 boards) since 2015 have taken the initiative to protect student data and to have student data privacy authority. Our Department of Public Instruction does not have that authority; it resides with the SLDS committee. Utah requires annual data privacy training for teacher licensure. They are working to make that more broad. There may be regular changes to FERPA or there may not. There hasn't been a whole lot but in 2015 there was an uptick. That was because of the digitization of data; everything is online – social media, etc., knowing the difference between directory information, where parental consent is needed for distribution versus personally identifiable information, which is violation. FERPA is doing new regulations in their department to manage risk. There may be a complete revamp of FERPA coming up. It may start this year; no other information has come forward. When there are changes like this to FERPA, especially major revisions, it is important with the annual training that people are aware of all the changes that are happening. I was hoping this solution would satisfy that need so there is not this extra burden because training is already being taken and if it is comparable to what is required - just check the box, read the page about how to log in and you have access to the data you need. (15:50)

Rep. Mary Johnson: Has there been any lawsuit regarding a privacy violation within the nation where the plaintiff's evidence was that a school district failed to comply with the FERPA guidelines as provided by the feds.

Ms. Kloberdanz: There have been complaints and the Department of Education has worked with the institution or school to remedy that. My understanding is there have been no lawsuits. A chance of a lawsuit is not very large, but I believe there have been some in the university environment but in the K-12 environment I don't believe there have been any lawsuits as such.

Vice Chairman Cynthia Schreiber-Beck: You can do it with an administrative rule versus doing an amendment to this particular bill. That is your preference?

Ms. Kloberdanz: Yes.

Vice Chairman Cynthia Schreiber-Beck: We would want to keep this broad and just say annual training and therefore you are in charge of that. I am unsure of how that is stated in code, whose responsibility that is, there just needs to be further discussion on that.

Ms. Kloberdanz: I think it's the responsibility of the SLDS Committee and the policies. We would keep it as annual training required, but the first option would satisfy that annual training because it is comparable. We checked with legal counsel and they suggested they could have school districts sign off. He felt that it would be easier and better for us if the individuals and not the students attested that they took the training.

Vice Chairman Cynthia Schreiber-Beck: Do you know approximately how many people this involves statewide? All the people who have access to SLDS are the ones that require the training.

Chairman Owens: Any opposition? Neutral testimony? Closed the hearing on HB 1348.

2019 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

HB 1348
1/28/2019
31601 (14:30-17:51)

- Subcommittee
 Conference Committee

Committee Clerk: Bev Monroe by Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to statewide longitudinal data system committee and biennial training for individuals who have access to statewide longitudinal data system

Minutes:

Vice Chairman- Cynthia Schreiber-Beck: Opened hearing on HB 1348. I conferred with the principals group and he is in agreement that we should not do this.

Rep. Hager: Moved a Do not Pass on HB 1348.

Rep. M. Johnson: Seconded.

Rep. Hager: With all the changes in cyber technology, keeping an annual thing in there puts us ahead of the game and with the recommendations of the committee I really feel we should leave it as it is and do not pass the changes.

Vice Chairman- Cynthia Schreiber-Beck: It will be and either or situation that will occur, it will either be FERPS or SLEDS training. If you do one of them you will be covered for an annual training for data security. Any further discussion? Seeing none.

Roll Call Vote: Yes 12 No 0 Absent 2. Do not pass on HB 1348 carries.

Vice Chairman- Cynthia Schreiber-Beck: Will carry the bill.

Hearing closed.

Date: 1/28/19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1348**

House Education Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Hager Seconded By Rep. M. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman M. Owens	A		Rep. Guggisberg	✓	
V. Chair. Schreiber-Beck	✓		Rep. Hager	✓	
Rep. Heinert	✓				
Rep. Hoverson	✓				
Rep. D. Johnson	✓				
Rep. M. Johnson	✓				
Rep. Johnston	✓				
Rep. Longmuir	✓				
Rep. Marschall	A				
Rep. Pyle	✓				
Rep. Strinden	✓				
Rep. Zubke	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. C. Schreiber-Beck

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

REPORT OF STANDING COMMITTEE

HB 1348: Education Committee (Rep. Owens, Chairman) recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1348 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1348

HB1348
1-23-19
#1

House Education Committee
Chairman Representative Mark Owens
Testimony in Support of HB1348– Representative C Schreiber-Beck
January 23, 2018

Chairman Owens and Members of the Committee:

For the record, I am Cindy Schreiber-Beck, representing District 25 in the House of Representatives.

This bill was brought forward due to a request from a high school principal in District 25. The request was to change the annual training requirement regarding data protection for any individual who has access to the statewide longitudinal data system (SLDS), to a biennial training requirement. (see line 23)

At the time this bill was written, all parties that were contacted regarding the proposed change were aware of, and in agreement. The parties included staff from ITD, DPI and other principals. Since that time, further discussion has occurred and an amendment will be crafted.

I fully agree that protection of student data is essential as is training for those individuals who have access to the statewide longitudinal data system which houses multitudes of information along with the student data.

The factor related to the request for a change to biannual training for those who access SLDS is that the federal government also has similar annual requirements for training (to protect data) through the Family Educational Rights and Privacy Act (FERPA). Thus the SLDS training is considered somewhat of a redundancy by the principals.

With this brief introduction of the change and why the change, I will let others testify with additional information that will be beneficial for the committee to determine the outcome of this bill.

Thank you for your consideration.

What is the Statewide Longitudinal Data System?

The Statewide Longitudinal Data System (SLDS) leverages stakeholders and partners of education, training, and employment programs to create a system which provides data to support the research and evaluation of programs to improve the outcomes of individuals provided service. SLDS maximizes the usefulness of management information while protecting the privacy and security of personal information.

The SLDS is a series of secured data warehouses comprised of historical education and workforce training data. The objective of the SLDS is to provide data on the outcomes of ND education and workforce training programs. All 50 states are currently building similar systems and are intended to enhance the ability of States to efficiently and accurately manage, analyze and use education data, including individual student records.

Through the data warehouses, critical education and policy questions begin to be addressed such as:

- *Are North Dakota students being prepared for success in post secondary education and the workforce?*
- *Do post secondary graduates find employment in North Dakota?*
- *Are North Dakota employers finding a well trained workforce within North Dakota for current and emerging jobs?*

Authorized users of the SLDS are able to login into the SLDS and obtain reports on specific subjects they have been granted privileges.

FERPA (Family Educational Rights and Privacy Act of 1974) is federal legislation in the United States that protects the privacy of students' personally identifiable information (PII). The act applies to all educational institutions that receive federal funds.



Russ
Ziegler

HB 1348
1-23-19
#2

HB1348– Statewide Longitudinal Data System FERPA Training

Testimony in Support

Good afternoon Chair Owens and members of the House Education Committee, I stand before you on behalf of NDCEL which is the organization that serves our school Superintendents, Principals, CTE Directors, Technology Directors, AD's, County Superintendents, Business Officials and truly every school leader with the exception of teachers and school board members. We stand before you today in support of the positive intent behind HB 1348.

As you can see with this bill, it is just a one word change to the language of subsection 4 of section 54-59-34 of the ND Century Code. This bill would change the requirement for FERPA training from one every year to once every two years. The Family Educational Rights and Privacy Act of 1974 (FERPA) is a federal law that school district employees live in every day all day. From student grades, IEP regulations, socio-economic status, etc. According to the Department of Education “FERPA is a federal law that protects the privacy of student education records maintained by, or on behalf of, educational agencies or institutions.” Also, according to the Privacy Technical Assistance Center within the U.S. Department of Education, it is necessary to make sure that any staff member who has access to personally identifiable information is trained to protect data confidentiality and preserve system security. There are a few ways that this training can be completed: District wide FERPA training, individual training provided by ITD and the SLDS team, etc. The Department of Education also state that everyone should be trained but the level of training might not be the same, it depends on the user's job responsibilities. Currently the language of the law requires that everyone do the SLDS training specifically even though FERPA is more than just electronic data.

On line 15 of the bill it states: “c. Provide for biennial privacy and security audits of the statewide longitudinal data system;” so IDT and sleds itself will do audits on a biennial basis instead of annually. It is our believe that biennial training in this area is also sufficient. We request a Do Pass on HB 1348.

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#3

***HB 1348 TESTIMONY
HOUSE EDUCATION COMMITTEE
BY: ROSI KLOBERDANZ, DIRECTOR
ND EDUCATIONAL TECHNOLOGY COUNCIL
INFORMATION TECHNOLOGY DEPARTMENT (ITD)
JANUARY 23, 2019***

Mr. Chairman and members of the committee, my name is Rosi Kloberdanz. I am the Director of the ND Educational Technology Council at the Information Technology Department (ITD). I am here to express concerns regarding House Bill 1348.

As you know, the Statewide Longitudinal Data System (SLDS) Committee is required by ND Century Code to establish and enforce policies governing access to and collection, storage, exchange, disclosure and use of data by and through the SLDS. These policies are based on federal and state laws and regulations, as well as data governance best practices.

We realize that school districts and administrative personnel have multiple competing priorities: Data privacy and security compete with other priorities such as improving educational outcomes, behavioral health, and school safety. However, as data is increasingly digitized and made available online, the protection of our students' and citizens' data is becoming more important, not less.

Ultimately our students are the ones at risk when private, protected data is accidentally made public. Imagine the impact on an individual student whose privacy is inadvertently made public. Parents may file a complaint with the school, the district, even the US Department of Education. An investigation may ensue, and the Department of Education may work with the school district to ensure procedures are in place to avoid this in the future. But the damage has been done, and the student pays the price.

The privacy and protection of our students' data is important to us at ITD, and I know it is important to you, or you would not have codified annual training in the first place. We recognize that there are users of the SLDS that have training already provided by their districts/employers/institutions that sufficiently address student privacy and data protections. We also understand that the annual 20-40 minutes of time that is spent on the required data privacy training can be a burden -- if this training is duplicative.

Therefore, after discussions with leadership of the ND Council of Educational Leaders (NDCEL), and working with SLDS program manager, we have proposed a solution that meets our position of educating the community about data protection annually; at the same time, it addresses the concerns of school administrators.

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#3

It is important to note that this solution does not require a change in statute. Rather we intend to address the annual training requirement via SLDS policy and a language change on the SLDS website.

Our proposed solution provides two options:

1. A person can either certify that they have received annual training through their district/employer/institution regarding student privacy, FERPA, and the protection of data which meets the annual training requirements for accessing the SLDS

or

2. If a person does not receive comparable training, they proceed to the FERPA 101 training video accessible via the SLDS website and certify completion immediately after viewing to continue access to the SLDS.

With this language change in place, the burden of duplicating training is eliminated.

In addition, with this change, it is important to note:

- The SLDS does provide training material, and users of SLDS reports are required to annually signoff on their training to gain access. The first option above would satisfy this requirement.
- Permissions to the SLDS will continue to be authorized annually, and those having permissions will also certify completion of having reviewed the short one page “Essential SLDS Practices” (re: user name and password, SLDS Security, Logging in or Logging out, Downloading / Saving Data, Printing Data)

NDCEL leaders approve of this solution. We have spoken to several members of the SLDS Committee, and this would meet their needs as well. Thus, I hope this also satisfies the concerns of this committee.

This concludes my prepared remarks. I would be happy to answer any questions.

Rosi Kloberdanz
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