

**ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016**  
**COMMITTEE STATEMENT**  
**LB692**

---

**Hearing Date:** Tuesday January 19, 2016  
**Committee On:** Education  
**Introducer:** Morfeld  
**One Liner:** Adopt the Student Online Personal Protection Act

---

**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

---

**Vote Results:**  
**Aye:** 8 Senators Baker, Groene, Kolowski, Krist, Morfeld, Pansing Brooks, Schnoor, Sullivan  
**Nay:**  
**Absent:**  
**Present Not Voting:**

---

**Verbal Testimony:**

<b>Proponents:</b>	<b>Representing:</b>
Senator Adam Morfeld	Introducer
Ryan Harkins	Microsoft
Karen Haase	self

<b>Opponents:</b>	<b>Representing:</b>
-------------------	----------------------

<b>Neutral:</b>	<b>Representing:</b>
-----------------	----------------------

---

**Summary of purpose and/or changes:**

LB 692 is a bill that would implement the Nebraska version of a Student Online Personal Information Protection Act (SOPIPA), which would prohibit technology companies who are invited into schools from using student data for targeted advertising or creating student profiles for non-educational purposes such as for providing credit or insurance.

Section-by Section Summary

Section 1: Creates the Student Online Personal Information Protection Act (SOPIPA)

Section 2: Provides a definition for the following terms:

\* Covered Information - Means personally identifiable information in any media or format that is not public information and may contain any of the following at a minimum:

- o Created by or provided to an operator by a student or the students parent or legal guardian's use of the operators site, service, or application for elementary, middle school, or high school;
- o Created by or provided to an operator by an employee or agent of an elementary, middle school, or high school purposes; or
- o Gathered by an operator through the operation of its site, service, or application for elementary, middle school, or high school purposes and personally identifies a student...

\* Interactive Computer Service - means that term as defined in 47 U.S.C. 230, as such section existed on January 1,

2016 [47 U.S.C. 230... The term "interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.] ;

\* Elementary, Middle School, or high school purposes - means purposes that are initiated or usually occur at the direction of an elementary, middle school, or high school, teacher, or school district or aid in the administration of school activities...

\* Operator Means - means that, when operating in this capacity, the operator of an Internet web site, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for elementary, middle school, or high school purposes and was designed and marketed for elementary, middle school, or high school purposes; and

\* Targeted Advertising - means presenting advertisements to students when the advertisement is based on information obtained over time from that student's online behavior. This does not include advertisements based upon a student visiting that location, or in response to that student's request for information or feedback, without the retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

Section 3: (1) Prohibits an operator of a site, service, or application from "knowingly":

- a) Engaging in targeted advertising on the operator's or other sites, service, or application if the targeting of the advertising is based on information, including covered information and persistent unique identifier's that the operator acquired because of the use of the site, service, or application for elementary, middle school, or high school purposes.
- b) Using information, including persistent unique identifiers created or gathered by the operator's site, service, or application, to create a profile about a student except in furtherance of elementary, middle school, or high school purposes.
- c) Selling or renting a student's information, including covered information. (Section 3 does not pertain to the purchase, merger or other type acquisitions of the site, service, or application.)

Subsection (d) of section 3 allows for the disclosure of information covered under this act in the following instances:

- I. In furtherance of the elementary, middle school, or high school purpose of the site, service, or application, if the recipient of the covered information disclosed under this subdivision does not further disclose the information unless done to allow or improve operability and functionality of the operator's site, service, or application;
- II. In furtherance of the elementary, middle school, or high school purpose of the sit, service, or application, if the recipient of the covered information disclosed under this subdivision does not further disclose the information unless done to allow or improve operability and functionality of the operator's site, service, or application;
- III. To ensure legal and regulatory compliance or protect against liability;
- IV. To respond to or participate in the judicial process;
- V. To protect the safety or integrity of users of the site and the security of the site, service, or application;
- VI. For school, educational, or employment purposes requested by the student, the student's parent or guardian, if the information is not used or further disclosed for any other purpose;
- VII. To a third party, if the operator contractually prohibits the third party from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the third party from disclosing any covered information provided by the operator with subsequent third parties, and requires the third party to implement and maintain reasonable security procedures and practices; or
- VIII. The operator may use the information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(2) Provides that an "Operator" as defined under this Act is required to do the following:

\* Implement and maintain reasonable security measures designed to protect information of this type from unauthorized disclosure;

\* Delete a student's covered information upon request from a recognized school within a reasonable time;

(3) Allows for the use or disclosure of "covered information" by an operator in the following instances:

- \* If federal or state law requires disclosure;
- \* For legitimate research purposes required by state or federal law; or
- \* To state or local educational agency for K-12 purposes as permitted by state or federal law.

(4) Section 3 does not prohibit an operator from:

- \* Using "covered information" to improve educational products if that information is not associated with an identified student on the operator's site, service, or application;
- \* An operator from using "covered information" that is not associated with an identified student to show the effectiveness of the operator's products;
- \* The sharing of "covered information" not associated with an identified student for the improvement of educational sites, services or applications;
- \* Prohibit the use of "recommendation engines" as long as the recommendation is not based on a payment or other consideration;
- \* Responding to a request for information from a student as long as the response is not based on a payment from a third party.

(5) This section does not:

- \* Limit the authority of law enforcement to obtain content or information from an operator through a court order;
- \* Limit an operator to use student data for adaptive learning or customized student learning purposes;
- \* Apply to general audience Internet websites, general audience online services, general audience online applications or general audience mobile applications;
- \* Limit service providers from providing Internet connectivity to schools, students or a student's family...

---

**Explanation of amendments:**

On page 4, strike lines 20-24 as it is redundant language and renumber the subsections accordingly.

---

Kate Sullivan, Chairperson