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SB 2105
Testimony of Amy De Kok
House Education Committee
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Chairman Heinert and members of the House Education Committee, my name is Amy De Kok. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 168 North Dakota public school districts and their governing boards. I appreciate the opportunity to testify today in opposition to Senate Bill 2105. While we share the goal of protecting student privacy, SB 2105 presents significant concerns regarding its impact on the ability of schools to gather essential data necessary for student support, school safety, and compliance with existing laws. The bill imposes overly restrictive limitations on student surveys, which could hinder efforts to assess behavioral health, school climate, and other critical factors impacting students' well-being.

Existing Federal Protections Under the PPRA

The Protection of Pupil Rights Amendment (PPRA) already provides a comprehensive framework for protecting student privacy while allowing schools to conduct surveys necessary for understanding student needs. PPRA requires schools to obtain prior written parental consent before administering any survey funded by the U.S. Department of Education that solicits information about sensitive topics, including:

- Political affiliations or beliefs of the student or their parent;
- Mental or psychological problems of the student or their family;
- Sexual behavior or attitudes;
- Illegal, anti-social, self-incriminating, or demeaning behavior;
- Critical appraisals of close family members;
- Legally recognized privileged relationships, such as those with lawyers, doctors, or clergy;
- Religious practices, affiliations, or beliefs of the student or parent; and
- Income information, except when required by law to determine eligibility for assistance programs.

For any survey containing these topics that is not directly funded by the U.S. Department of Education, PPRA grants parents the right to opt their child out and requires schools to provide advance notice of the survey's administration. Additionally, PPRA mandates that school districts adopt policies—developed in collaboration with parents—

governing how surveys are conducted, how parents are notified, and how privacy is protected. These policies must be reviewed and communicated to parents at least annually and whenever significant changes occur.

In other words, federal law already ensures robust parental involvement in the survey process. SB 2105, however, creates additional and unnecessary barriers that go beyond these well-established protections, limiting schools' ability to collect essential, anonymous data that informs policies on student safety, health, and well-being.

Impact on Behavioral Health and School Safety

The ability of schools to assess and address student mental health needs is vital. Behavioral health surveys help identify trends in student well-being, allowing schools and community organizations to respond effectively. By restricting survey administration only to the Department of Public Instruction and requiring written parental authorization for all other surveys, this bill creates unnecessary delays in obtaining data that informs intervention strategies for bullying, mental health support, and crisis prevention.

Furthermore, surveys conducted in partnership with other state and local agencies—including those related to student safety, public health, and community wellness—would be severely limited. Schools rely on these partnerships to ensure comprehensive support systems for students, and this bill could create barriers to collaboration.

Unintended Consequences and Administrative Burdens

SB 2105 introduces ambiguity regarding the definition of third-party surveys and could disrupt long-standing practices that benefit students, educators, and policymakers. Many surveys, such as those conducted by the Department of Health and Human Services, provide data used to inform programs that support student success and public health initiatives. Restricting these efforts may lead to unintended negative consequences, such as:

- Reduced access to grant funding used to improve student services,
- Limited ability to track progress on critical issues such as mental health and school safety, and
- Increased administrative burden on schools and families.

Additionally, the requirement for parental written authorization for each survey places an unnecessary burden on families and schools. Many surveys are anonymous and serve broad public policy objectives rather than collecting personal student information. Overburdening parents with additional paperwork for surveys that do not pose privacy risks may lead to reduced participation and less accurate data collection.

Conclusion

SB 2105 unnecessarily restricts schools' ability to assess and address student needs while duplicating protections that already exist under federal law. The bill may have unintended consequences that hinder school safety efforts, delay identification of mental health concerns, and impede collaboration between education and public health agencies.

For these reasons, NDSBA respectfully urges the committee to issue a DO NOT PASS recommendation on SB 2105. We are committed to working with lawmakers, educators, and families to find balanced solutions that protect student privacy while ensuring schools have the tools they need to support student success.

Thank you for your time and consideration. I welcome any questions the committee may have.