

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2042

2005 SENATE TRANSPORTATION

SB 2042

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Transportation Committee

Conference Committee

Hearing Date 1-13-05

| Tape Number                                    | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1  | x      |        | 1-1620  |
|  |        |        |         |
|  |        |        |         |
| Committee Clerk Signature <i>Mary K Monson</i> |        |        |         |

Minutes:

**Vice Chairman Espgaard** opened the hearing on SB 2042 relating to compulsory school attendance and motor vehicle operators' licenses; and to provide a penalty.

All members were present except Senator Trenbeath.

**Anita Thomas** (Attorney for Legislative Council, served as committee counsel to the interim No Child Left Behind Committee) The NCLB committee listened to an inordinate amount of information regarding the NCLB Act. Senator Cook, a member of that committee, concluded that the Act made schools in the state responsible for the academic performance of students. In order to do that the students would need to be in school so they can be taught. He visited with the superintendent of the Mandan school district, and the Mandan Chief of Police. Through those conversations this bill came into being. The interim committee accepted it and recommended it to the Legislative Council.

If a teacher determines that a child was absent and has not been excused, such as a doctors appointment, the teacher must notify the school administrator. The administrator investigates, and if the administrator believes that the person responsible for the child has failed to ensure the child's attendance, then the matter must be referred to the State's Attorney. The language is related to ND Century Code Section 15.1-20-01 which provides, "Any person having responsibility for a child between the ages of 7 and 16 years shall ensure that the child is in attendance at a public school for the duration of each school year." And if a person fails to do so, the person may be found guilty of an infraction for a first offense and Class B misdemeanor if it happens thereafter. If a parent or other responsible party can prove that substantial and reasonable efforts were made to comply with this law and the child just would not stay in school, the complaint could be dropped against the parent. As an enticement, the bill also provides that if a child under 16 is in violation of the compulsory attendance laws of the state or of the child's school district, the administrator of the school may notify the Director of the DOT and that student's driver license or permit would be canceled. That individual student could not reapply for a period of three months or until the student turns 16 whichever comes first.

**Senator Bercier** asked whether the schools on the reservations that receive state foundation aid would fall under this law.

**Anita Thomas** said that she was not comfortable answering that questions without further study.

**Senator Bercier** requested more information so he could provide it to his school administrators.

**Bev Nielson** (ND School Board Association) Spoke in favor of SB 2042. With NCLB schools are now being held accountable in very strict ways for some things they have little or no control over, such as whether or not kids show up for school in the morning. We support trying to make

the truancy laws in ND more enforceable. Under the old law it was considered a felony if you didn't have your children in school. One reason enforcement was lax was because charging a person with a felony for this infraction seems a bit much. Other reasons would include that the backlog of trying to enforce these in the courts is so large that they don't have the manpower to do it. It's a huge problem in some districts and an annoyance in others. But we are being held accountable for something we need to try to get a handle on enforcing. This bill probably won't solve all the problems. The drivers' license portion actually only impacts students between the ages of 14-16. But it might get the attention of both the parents and kids.

**Senator Nething** asked if there is any evidence other than hunches about how bad the problem is?

**Bev Nielson** said she wasn't the best one to answer that and suggested that maybe superintendents or DPI would keep those numbers.

**Doug Johnson** (Assistant Executive Director for ND Council of Educational Leaders) Supports SB 2042. NDCEL thinks it is an important bill to give a better tool to handle the issues of truancy in our schools. And at least by having this discussion and looking at this very closely it will give the opportunity to fine tune the process of meeting the requirements of NCLB. As a practicing administrator, he has experienced a number of truancy issues and they are very difficult issues to carry out and work with the parents and court system. This bill gives some clear direction.

**Lynn Heinert** (A Manager with the Drivers License and Traffic Safety Division of ND DOT) Not opposing SB 2042 but pointing out some problems that might be encountered at the Drivers License Division when trying to enforce it. The way the bill is written it is asking that, when the

Drivers License Division receives notification from school administrators to cancel the driving privileges of a student, the Division would then, in turn, cancel those driving privileges.

Currently, any requests the Drivers License Division get either comes as state law mandated or at the request of the courts to cancel the driving privileges.

Would the DOT be responsible for allowing this student an administrative hearing before the cancellation of the driving privileges? They are concerned about the students not having their due process before those privileges are removed. Where would the administrative hearing be held?

**Anita Decker** (DPI) (Meter 1200) The department does not necessarily oppose SB 2042 but had some points to make about it. They support the reduction in the penalty, but they still feel the parents are responsible for getting their children to school. Many of these issues could be covered if the work "may" was changed to "shall" for the State's Attorney (page 1 line 21). This law could be used more effectively in the schools for all the purposes the law is used for. This statute is used in other ways other than just compulsory attendance of children in school. It is used for parents and home ed or approval of schools.

**Senator Mutch** asked what authority the school has for expelling students:

**Anita Decker** replied that policies on attendance are set by the local districts and they have a great deal of power.

**Senator Nething** asked if it was correct that she was concerned about the language being taken out of the bill

**Anita Decker** replied yes.

**Senator Nething** asked her to explain the other instances where this is used other than truancy.

**Anita Decker** (Meter 1540 She had informed a school that they had not complied with the state school approval statute and, as a non approved school, the parents should not be sending their children to that school. They also use it if a home education parent is in violation of the home education statute. The law has many applications.

The hearing on SB 2042 was closed.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Transportation Committee

Conference Committee

Hearing Date 1/17/05

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
|             |        |        |         |
|             |        |        |         |
|             |        |        |         |

Committee Clerk Signature *Mary K. Morrison*

Minutes:

SB 2042 was withdrawn from the Transportation Committee and rereferred to the Senate Education Committee at the request of Chairman Trenbeath.

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/03/2005

Amendment to: SB 2042

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

|                | 2003-2005 Biennium |             | 2005-2007 Biennium |             | 2007-2009 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             |                    |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

| 2003-2005 Biennium |        |                  | 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
|                    |        |                  |                    |        |                  |                    |        |                  |

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

Senate bill 2042, as engrossed, would have no fiscal impact to the North Dakota Department of Transportation.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

|                      |                  |                       |            |
|----------------------|------------------|-----------------------|------------|
| <b>Name:</b>         | Shannon L. Sauer | <b>Agency:</b>        | NDDOT      |
| <b>Phone Number:</b> | 328-4375         | <b>Date Prepared:</b> | 02/03/2005 |

**FISCAL NOTE**  
 Requested by Legislative Council  
 12/20/2004

Bill/Resolution No.: SB 2042

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

|                | 2003-2005 Biennium |             | 2005-2007 Biennium |             | 2007-2009 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             |                    | \$1,000     |                    |             |
| Appropriations |                    |             |                    | \$1,000     |                    |             |

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

| 2003-2005 Biennium |        |                  | 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
|                    |        |                  |                    |        |                  |                    |        |                  |

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

There would be a one-time computer programming expense of \$1,000. Revenue is negligible.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

One-time computer programming expense of \$1,000.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

|                      |                  |                       |            |
|----------------------|------------------|-----------------------|------------|
| <b>Name:</b>         | Marsha M. Lembke | <b>Agency:</b>        | NDDOT      |
| <b>Phone Number:</b> | 328-4865         | <b>Date Prepared:</b> | 12/28/2004 |

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1057, HB 1074, HB 1120, HB 1159, HB 1201, HB 1265, HB 1280, HB 1293, HB 1313, HB 1324, HB 1325, HB 1359, HB 1387, HB 1413, HB 1418.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1038, HB 1048.

**MOTION**

**SEN. STENEHJEM MOVED** that the Senate be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, February 2, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2026: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2026 was placed on the Sixth order on the calendar.

Page 1, line 21, after the comma insert "a bond, or a letter of credit"

Page 2, line 1, replace "The" with "If a bond or letter of credit is provided in lieu of liability insurance, the bond or letter of credit must be payable to the registrar, with a cancellation notice provided to the registrar. A letter of credit must be irrevocable. The amount of a bond or letter of credit must be five hundred thousand dollars for a class A license, four hundred thousand dollars for a class B license, three hundred thousand dollars for a class C license, and two hundred thousand dollars for a class D license. If the registrar deems it appropriate or necessary, the"

Page 2, line 2, remove "necessary"

Page 2, line 12, replace "12-1-33-02.1" with "12.1-33-02.1"

Page 2, line 16, remove "to" and after "not" insert "to"

Page 2, line 22, after "coverage" insert ", a bond, or a letter of credit"

Page 3, line 26, after "file" insert ", a bond, or a letter of credit"

Page 4, line 6, remove "to" and after "not" insert "to"

Page 5, line 7, after "fails" insert "substantially" and remove "substantially"

Page 5, line 8, after "within" insert ", unless the failure is due to circumstances beyond the control of the contractor"

Page 6, line 1, overstrike "fully" and after "refund" insert "fully"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2042: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2042 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section" and remove "and 39-06-01.1"

Page 1, line 2, remove "and motor vehicle operators"

Page 1, line 3, remove "licenses"

Page 1, line 12, after "section" insert "The administrator" and remove the overstrike over "shall investigate any alleged violation of the"

Page 1, remove the overstrike over lines 13 through 16

Page 1, line 17, remove the overstrike over "violation of compulsory attendance provisions" and insert immediately thereafter "in accordance with this chapter or in accordance with the"

school's or school district's policies." and remove the overstrike over "~~and the county superintendent shall~~"

Page 1, remove the overstrike over lines 18 through 20

Page 1, line 21, remove the overstrike over "~~the compulsory attendance provisions~~" and insert immediately thereafter "in accordance with this chapter or in accordance with the school's or school district's policies", remove the overstrike over "~~The state's attorney~~", after "~~may~~" insert "shall", remove the overstrike over "~~petition~~", after "~~a~~" insert "juvenile", and remove the overstrike over "~~court~~;"

Page 1, remove the overstrike over lines 22 and 23

Page 2, remove lines 1 through 9

Page 2, line 10, replace "4." with "2."

Page 2, line 13, replace "5." with "3."

Page 2, remove lines 19 through 31

Page 3, remove lines 1 through 24

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2050: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2050 was rereferred to the **Appropriations Committee**.

#### REPORT OF STANDING COMMITTEE

**SB 2090: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2090 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2147: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2147 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 4-01, a new section to chapter 6-09, a new section to chapter 57-39.2, and a new section to chapter 57-39.5 of the North Dakota Century Code, relating to the establishment of a beef marketing and a livestock loan guarantee program and to provide a sales tax exemption; to amend and reenact section 4-14.1-03.1 and subsection 1 of section 57-38.6-01 of the North Dakota Century Code, relating to agricultural grants; to provide for a report; to provide an appropriation; and to provide an expiration date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Beef marketing program - Establishment. The agriculture commissioner shall establish a source-verified and process-verified beef marketing program in consultation with the state board of animal health, the North Dakota stockmen's association, the North Dakota state university beef systems center of excellence, and the United States department of agriculture.

**SECTION 2. AMENDMENT.** Section 4-14.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**4-14.1-03.1. Agricultural products utilization commission - Authority.**

2005 SENATE EDUCATION

SB 2042

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

Conference Committee

Hearing Date 1/25/05

| Tape Number         | Side A | Side B | Meter #   |
|---------------------|--------|--------|-----------|
| 1                   |        | x      | 1700-6000 |
| 3                   | x      |        | 5085-5387 |
| some tape failed 3  | x      |        | 5387-6000 |
| continuation 2042 3 |        | x      | 0-2300    |

Committee Clerk Signature

*Patty Wilkens*

**Minutes: Relating to compulsory school attendance and motor vehicle operators' licenses; and to provide a penalty.**

**Senator Layton Freborg, Chairman called the meeting to order on SB 2042**

**Testimony in support of the Bill:**

**Anita Thomas :** Introduce the bill, attorney with the Legislative Council. This bill was presented to the interim committee, they ultimately recommended it to the Legislative Council. If a teacher determines that a child has been absent and has not been excused, such as Dr. appt. then they would need to notify the school administrator. They would need to investigate and if administrator believes that the person responsible of that child has failed to ensure that child's attendance, the administrator must refer the matter to the states attorney. This is related in the century code, 15.12001. Anyone responsible for a child between the ages of 7-16 yrs. will ensure that the child would be in attendance for the duration of the yr. If a person fails to do so would be

found guilty of an infraction of a first offense, and a class B misdemeanor if it happens thereafter, this would be maximum of thirty days in jail, a thousand dollar fine, or both. Now if the parent or person responsible could prove and provide us with substantial and reasonable efforts were made to comply with the requirements of the law, that the child just wouldn't stay in school. The complaint against the parent could be dropped. If a child under 16 is in violation of the compulsory attendance law of this state or their school district. The administrator of the school district may notify the director of DOT and the individual drivers license or permit is cancel. They may not be able to apply for a period of three month or until the individual turns 16 whichever comes first. That is the summary of the bill.

**Senator Freborg :** Graduating in the 8 th grade is no longer allowed to quit school?

**Anita Thomas :** Nothing in the century code that refers to that.

**Senator Flakoll :** What age do they get their license?

**Anita Thomas :** They may get a permit at 14 and then the child is required and has a learning period of 6 months. I don't believe that their are any agricultural exceptions.

**Senator Flakoll :** Any discussion about the neighboring states on this committee? 1/3 of the students I went to lived in SD.

**Anita Thomas :** There was no discussion about that.

**Senator G. Lee :** Does this cover all schools in the state? Public, private, etc.

**Anita Thomas :** This would apply to every child that is suppose to be in school, there is a variety of exception, including those of a nonpublic school. Nonpublic school is a viable exception to not showing up in a public school.

**Senator G. Lee :** I am not sure I understand your answer.

**Anita Thomas :** If you go to a private school, you are considered in attendance, if you choose not to attend the private school then you are expected to be in a public school.

**Senator G. Lee :** In one offense there would be an investigation, in your mind what is an investigation and how would it be carried out?

**Anita Thomas :** This was the bill draft that was presented to the committee and I am not in a position to determine precisely what was meant by that because it was discussed at the interim committee.

**Senator G. Lee :** Did you draft the bill?

**Anita Thomas :** Yes I did, and as you sometimes we draft what we are asked to draft.

**Senator Taylor :** Isn't there a current penalty that is much different than a class B, like a felony but not in force? I am not seeing that drafted in the bill.

**Anita Thomas :** The conversation about a felony has come up on a # of occasions and I have no idea where that was rooted. That's not to say that it isn't buried somewhere, we did a # of checks to current law, the matter would get reported to the states attorney. The states attorney could then petition a court for a declaration of educational depravation. The only place that phrase education depravation is used is in compulsory attendance law. We went back to statehood, it was then a misdemeanor with a penalty of 5-20 dollars for first offense and 10-50 for a second offense. In 1971 this was considered an infraction, in 1989 we then used that phrase educational deprivation, and whatever penalty was attached was repeal back then.

**Senator Flakoll :** With a class B misdemeanor, with a goodly # of single parents who take care of their children, might the child in question become award of the state?

**Anita Thomas** : I would have no reason to doubt that would be one of the many options available to this work.

**Doug Johnson** : ND Council of Educational Leaders is in favor of this bill. Speaking also on behalf of Bev Neilson with the SBA. This will assist us with dealing with the problems of truancy in our schools and particularly with that age group of 13-16 where it is more of a problem. This would also help us to comply with NCLB mandates that have come to our schools. One of the things that is most difficult for us as administrators that deal with truancy issues, usually the methodologies that were followed by me as a school principle might or as a middle school administrator for 20 yrs would be to use juvenile courts as a process to go through it but the only way I could do that is to convince the parent to deem their child upon moving uncontrollable. They would then file with the juvenile court, because the parent couldn't even get them to come to school. This bill should help us a lot, however there are concerns from the DPI that it deleted a lot of the compulsory attendance regulations on the first page. The difficulty of the department of transportation had was that in the last page it had the school administrator making the recommendation to the DOT for eliminating a driver license for a student and they felt uncomfortable with that. I would like to propose an amendment to this, I have spoken with Senator Cook about this, I will pass this out and walk you through this. Pg 1 line 11 where it says each individual listed in this section. We would delete, and add then and insert the administrator. We would then continue to reinsert all of the language that is continued on there to line 17. Then on line 17 after the word provisions, we would insert in accordance with this chapter or in accordance with the school districts policies. This language actually comes from pg 2, and look on line 2. On line 17 after the word policies, we reinsert again the county superintendent shall

report all the language that goes down to line 21. On line 21 change the word may to shall, meaning that they must carry out the law, and also on line 21 delete the word a, insert the word juvenile, so that it becomes juvenile court. If that was done, this would enable on pg 2 to delete all of lines 1-9. We would not have to have that language, and renumber accordingly. This would take care of the concerns of the DPI and also the DOT.

**Senator Flakoll :** That states attorney will do something with this, the message we often get is weather it is bad checks for 5000.00 or whatever they just don't have the staff or time to do some of these things. That leads me to believe that they would do something with this.

**Doug Johnson :** I do agree with you but I believe that with the amendment this would address this issue. All of a sudden now this does become a requirement that the States Attorney must follow through with it. In the past, these were important issues, but not as important as other issues that they had, changing this language will address that issue.

**Senator Flakoll :** When my brother and I were approximately that age, my father received 3 rd degree burns and was in the hospital for a few weeks. We had to do the chores, and we were never on time for school, would my father be thrown in the jail after he got out of the hospital in this deal? Is there out carve for what might be a justifiable absence?

**Doug Johnson :** Yes, in most districts they would have policy in place, and look at what is an excused absence VS a non-excused absence and what is a truancy. In those particular instances the school district would have to determine if that is excused or un-excused. If you would go into court and you come to the conclusion that the family were using that excuse to make the children work on the farm. The courts don't usually look at the non-excused absence as a truancy and therefore would not consider that.

**Senator G. Lee :** Any idea how much work this is going to add to the state, in terms of the load and in terms of # of students you will have to deal with?

**Doug Johnson :** I can only speculate with my own personal experience, being a school administrator for more than 20 yrs. I would have on the average maybe 5 a yr. Most of the occurrence is going to happen at the middle level or early sophomore yr. It could be a demand but those are issues that are important to us to follow thorough.

**Senator Seymour :** If this doesn't pass what does it mean. Did I miss something.

**Doug Johnson :** If this doesn't pass we would go back to the usual procedure, I would always as a school administrator do two things. I would file, with human services and work very closely with the parent, this was very difficult to go into court with just a truancy issue.

**Kent H Jelmstad :** Supt. of schools in Mandan, here to discuss the response to this bill relating to the draft that I was asked to present at last summers administrative conference. There were some surprises, that I experienced when I presented it. Mark Twain once said, if you have to swallow a frog, don't look at it too long. Let's not look at this too long, let the children know their are consequences to their choices.

**See attached : written testimony**

**Senator Flakoll :** This may be out of your jurisdiction, but do you know what the penalty is for driving without a license.

**Kent H Jelmstad :** I am not sure, I have tended to drive with one.

**Dean Bard :** I am here on behalf of ND small organized schools. I have a brief comment on this. When I first read the bill I thought it was great, then I got down to pg 3 and the provision about the cancellation of the motor vehicle license, except that what it does as it is drafted it lays all of

the responsibility for that on the administrator of the district. There are no provisions for any appeal in case a wrongful decision is made, as you all know in a case with a person who is charged with a DUI they have a right of appeal with the state highway dept. to obtain a temporary license. Giving the authority to the administrator is caring it a little too far, when even with DUI cases we have a (meter 5182) but the amendments that have been offered cure that. If the decision is going to be made by the juvenile court, I am comfortable with that b/c there is the court process and the hearing process. This bill is in good shape with the amendments.

**Testimony in opposition of the Bill:**

**Anita Decker :** I am the director of school approval and school accreditation for the DPI speaking in opposition of this bill.

**See attached : written testimony**

**Senator Freborg :** Would you favor the first part of the bill?

**Anita Decker :** I don't have the bill in front of me, but yes.

**Senator Freborg :** Section one Anita

**Anita Decker :** We favor the part in section one up until the word may, we prefer to see shall.

**Lynn Heinert :** I am a manager with the drivers license and traffic safety division. We are not totally opposed to this bill, we have some concerns with section 2 on pg 3. Where it is asking the department to cancel the driving privileges of an individual, based upon the school administrators recommendation. Our concerns with this are then that we would have to have to afford that driver the opportunity for a hearing with our hearing officers to get them their due process, before we take that privilege away from them. We would recommend that you adopt Mr. Johnson's amendment that that request to suspend the driving privileges come from the juvenile court.

Currently we have requests on child support or neglect of paying child support payments that come from the court it streamlines our whole process. So we would recommend that the amendment be made that the request of the driving privileges come from juvenile or any court.

**Senator Flakoll :** Could you give us the # of age range 14-16 may have drivers license or permits.

**Lynn Heinert :** We have 4397 that are under age 16.

**Senator G. Lee :** Speaking in opposition of the bill with the amendment are you in favor of the bill?

**Lynn Heinert :** I believe we would remain neutral on that and we definitely will not oppose it.

**Carlotta McCleary :** Executive Director of the ND Federation of Families for Children's Mental Health.

**See attached : written testimony**

**There was a little discussion on 2042 in the afternoon however the taped had failed, not all was caught on tape.**

**Senator Freborg :** Indicated something about an interim committee

**Senator Flakoll :** How did the penalty phase in this compared to, speaking specifically to the parent or guardian, what's currently in law?

**(meter 5387) tape failed**

**side b was working more discussion on SB 2042**

**Senator Freborg :** We had a radical amendment from school administrators. Do you have that

**Senator Erbele?**

**Senator Erbele :** It was one on the Senate table or was that the amendment?

**Senator Freborg :** We also have a recommendation for an amendment from Anita Decker. Do you have Anita Decker's testimony?

**Senator Erbele :** Yes I do.

**Senator Freborg :** There was a recommendation for a one word amendment there, I am not sure if this is a recommendation, but the second pg of the testimony about the middle of the pg says that the word shall, is substituted for the word may on pg 1 line 21.

**Senator Freborg :** Does anyone like section 2 or dislike section 2.

**Senator Taylor :** On the interim committee I expressed at committee today and I am sure it was said that we were replacing a felony that wasn't being enforced with a misdemeanor. To your ? on section 2, as far as the drivers license part of it, I revert back to session last time on transportation, using the drivers license as for this that or the other thing that this is going to be jerked by the state rather than letting the parents having a little more control over the behavior of their children, putting the state in the roll of enforcing through drivers license, maybe we should leave the enforcement to the class be misdemeanor.

**Senator Seymour :** I like it the way it is, b/c I think our whole problem with the whole deal is that parents need more responsibility, and this would help do it.

**Senator Freborg :** The parents should be responsible and not the student.

**Senator Taylor :** I assume that are we looking at the version as propose with amendments by Doug Johnson?

**Senator Freborg :** No, we are looking at the original bill unless someone wants to propose an amendment.

**Senator Taylor :** This makes it even a little worse, section 2. The one thing I like about the amendments that they are going from the administrator of the individual school notifying the motor vehicle dept. about this errant student VS a juvenile court. I am not sure that the power should be put in the administrators hands without any kind of a civil recourse or something.

**Senator Freborg :** Would you like to move this amendment?

**Senator Taylor :** I will move the amendments as proposed on this sheet presented by Doug Johnson.

**Senator Freborg :** Do you all have a copy of the rewritten bill that Mr. Johnson had, so that the amendment is applied?

**Senator G. Lee,** Second the motion

**No other discussion**

**Senator Freborg** asked the clerk to take the roll on the amendments that were proposed by Doug Johnson, representing the school administrator.

**Roll call vote : 6-0-0**

**Senator Freborg :** Did you vote yes, Senator Flakoll ?

**Senator Flakoll :** Yes

**Senator Freborg :** You all have the amended bill and all have a copy of that.

**Senator Taylor :** Would it be possible to ask Doug Johnson to come to the podium for a couple of ?'s

**Senator Freborg :** Yes

**Doug Johnson :** Representative of ND Council of Educational Leaders

**Senator Taylor :** I did liked the change of course going from administrator to individual school to juvenile court, could you help me understand that process in terms of what I don't want of course is the student being put upon the Gestapo where he will get his privileges jerked. If he goes to the juvenile court system, he or she what is that process and is that more deliberate, I guess.

**Doug Johnson :** It is a much more deliberate process, b/c you would have to determination that the child is delinquent, the juvenile court has rules, usually they have three steps that they go through, first a juvenile court hearing, first will be an informal hearing to see if it can be rectified to an informal hearing. They will assign that student over to a monitor or probation officer, to monitor them. If there is a reoccurrence of the problem it will come back to the juvenile court, then they are given a second informal hearing. At that point if everything goes well for the period of probation time, that person will be dropped from probation, however if they have a third violation, they go to a formal court hearing this would be very specific it is just like going to a court of law without a jury, the judge in this case makes the sole determination of what's going to happen to the juvenile. My guess would be that the first and informal hearing would be the first contact, would be that the juvenile court would contact the drivers license bureau.

**Senator Taylor :** The license could be revoked after the first informal hearing or would it have to get to the third hearing before they lose their driving privileges.

**Doug Johnson :** That would have to be a determination by the juvenile court, my guess is that they would interperter that to go through the three hearing phase. With my experience as an administrator.

**Senator Flakoll :** Sounds like a lot of legalese fees. How is that better than the parent grounding the kid and not giving them the car? Is that local control?

**Doug Johnson :** We all would like to see the parent being able to control the child, ground them and not give them the car. Most of these instances unfortunately, when we have a truancy the parent has lost the control of the child. This becomes an unruly behavior and they don't follow parents rules.

**Senator Flakoll :** Would that be with throwing the parent in the hooskew?

**Doug Johnson :** That is true, but the personal experience I have had is that I tried to get the parent to get control of the child, weather it be through the juvenile court threat or through a bill like this that makes the parent responsible. They usually have to force the situation through the court system.

**Senator G. Lee :** Just looking at the amended version that we have sections 1 and 2 are independent of each other. Is that correct, if he didn't like section 2 then section 1 would still be able to be inactive?

**Doug Johnson :** That is correct you could do that, the biggest fear that I heard coming from DPI is that section 1 does tie everything to the compulsory attendance law, I fear that by striking that section on the first pg it would tie their hands up in dealing with other situations, like non-approved schools.

**Senator G. Lee :** Say just for discussion, we take out section 2, compulsory attendance would still be there.

**Doug Johnson :** This would take care of the compulsory education issues.

**Senator G. Lee :** Would that be a step forward in terms of helping the issue and not encumbering the license.

**Doug Johnson :** Yes, this would be but I think that you need that one other step that the license of the student, especially age 14-16 is a very desirable thing to have.

**Senator Flakoll :** With the license being taken away, is there any insurance ramification for like when you apply for insurance, if you lost your license would that affect your insurance rate? Do you know that?

**Doug Johnson :** I am not sure about that. I only know that with other violations it does affect their rates, this is something the underwriters of ND would have to look into this area. To my knowledge that has something like this is the state of NC and we could check with them on that.

**Senator Flakoll :** Just as a comment, I am fairly certain that I won't vote for any bill with section 2 in it. Not saying I would vote for it if it taken out, but if two is in there, it probably will not get my support.

**Senator Freborg :** You must have had chocolate for dinner.

**Senator Freborg :** Would you like to make a motion Senator Flakoll ?

**Senator Freborg :** Let me ask you a ?. If in section one after you made that statement, you do like the amendments proposed by Mr. Johnson, then work off of that bill even though we have not acted on it yet. It doesn't matter either way, to get rid of section 2.

**Senator Flakoll :** I reason why I am looking back and forth is that I think when those amendments were drafted, there was some inadvertent underlining that went on in the first part of section 2. One and two that were already in the bill.

**Senator Flakoll :** I would move that we remove the new language that is in section 2. if that makes sense.

**Senator Freborg :** You could remove section 2 from the bill, there is no reason to leave the language if there is no new language. Adjust the title accordingly.

**Senator Flakoll :** Are you sure.

**Senator Freborg :** Section 2 will remain as is in the century code if you just remove it from this bill.

**Senator Flakoll :** So you are not just talking overstrike it?

**Senator Freborg :** I am just talking about taking section two out of the bill and adjusting the title.

**Senator Flakoll :** I would move that we would remove section 2 out of SB 2042 and change title and renumber accordingly.

**Roll call was taken, vote : 5-1-0**

**Senator Flakoll :** May we hold this bill

**Senator Freborg :** Yes, absolutely

**Senator Taylor,** second the motion.

**Senator Freborg :** closed the hearing on **SB 2042**

The meeting was adjourned.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

Conference Committee

Hearing Date 01/26/05

| Tape Number                                    | Side A | Side B | Meter #   |
|--|--------|--------|-----------|
| 1  |        | x      | 3080-3800 |
|  |        |        |           |
|  |        |        |           |
| Committee Clerk Signature <i>Patty Wilkens</i> |        |        |           |

**Minutes: Relating to compulsory school attendance and motor vehicle operators' licenses; and to provide a penalty.**

**Senator Layton Freborg, Chairman called the meeting to order on SB 2042**

**Committee work :**

**Senator Flakoll :** I think we adopted the full body of these amendments and later struck out section 2.

**Senator Freborg :** Senator Taylor we did adopt an amendment where we removed section 2. Did you all get a copy of this? Mr. Johnson's amendments where he applied his amendments to the bill. This is what we are acting on, only section 1.

**Senator Seymour :** I don't recall if I said it before, but I don't like the idea of taking out section 2.

**Senator Freborg :** I believe you voted to take it out, I guess you did not. Just checking to see if you remember. Do we want to take action or do we need more time?

Page 2

Senate Education Committee

Bill/Resolution Number SB 2042

Hearing Date 01/26/05

**Senator G. Lee, Made a motion for a do pass as amended on, Seconded By, Senator Erbele**

There was no further discussion

There being no other discussion roll call vote was taken. vote: **3 yea-2 nay-1 absent**

**Senator G. Lee, will carry the bill.**

The meeting was adjourned.

9/26/05

PROPOSED AMENDMENTS TO SENATE BILL NO. 2042

Page 1, line 1, replace "sections" with "section" and remove "and 39-06-01.1"

Page 1, line 2, remove "and motor vehicle operators"

Page 1, line 3, remove "licenses"

Page 1, line 12, after "~~section~~" insert "The administrator" and remove the overstrike over "~~shall investigate any alleged violation of the~~"

Page 1, remove the overstrike over lines 13 through 16

Page 1, line 17, remove the overstrike over "~~violation of compulsory attendance provisions~~" and insert immediately thereafter "in accordance with this chapter or in accordance with the school's or school district's policies," and remove the overstrike over "~~and the county superintendent shall~~"

Page 1, remove the overstrike over lines 18 through 20

Page 1, line 21, remove the overstrike over "~~the compulsory attendance provisions~~" and insert immediately thereafter "in accordance with this chapter or in accordance with the school's or school district's policies," remove the overstrike over "~~The state's attorney may petition~~", after "a" insert "juvenile", and remove the overstrike over "court,"

Page 1, remove the overstrike over lines 22 and 23

Page 2, remove lines 1 through 9

Page 2, line 10, replace "4." with "2."

Page 2, line 13, replace "5." with "3."

Page 2, remove lines 19 through 31

Page 3, remove lines 1 through 24

Renumber accordingly





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Renumber accordingly



**REPORT OF STANDING COMMITTEE**

**SB 2042: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2042 was placed on the Sixth order on the calendar.

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2005 HOUSE EDUCATION

SB 2042

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

House Education Committee

Conference Committee

Hearing Date 28 February 05

| Tape Number                                  | Side A | Side B | Meter #    |
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| 1  | X      |        | 2000 - end |
|  |        | X      | 0 - 1871   |
| Committee Clerk Signature <i>Jan Prindle</i> |        |        |            |

Minutes:

**Vice Chairman Johnson** opened the hearing of SB 2042, relating to compulsory school attendance.

**Anita Thomas, attorney with Legislative Council**, introduced the bill. This bill is a recommendation coming out of the Interim No Child Left Behind Committee. It was initially drafted for the committee by Sen. Cook. He determined that the NCLB Act placed consequences on schools and school districts if schools did not do well on tests. He also determined that students would not likely do well on tests if they were not present in the learning environment. As originally conceived, SB 2042 made each teacher and administrator responsible for the enforcement of the compulsory attendance law. If the teacher noted the student was absent without excuse the matter would be reported to the school administrator who in turn would investigate the absence. If the administrator determined that person that was responsible for insuring that the child was in attendance failed to so insure, the administrator

would have to report the matter to the State Attorney. The bill made failure to insure the attendance of the child an infraction for the first offense and a class B misdemeanor for the second or subsequent offense. An infraction carries a maximum fine of \$500 and a class B misdemeanor carries a maximum penalty of 30 days imprisonment, a fine of \$1000, or both. The bill provided an exception for a responsible party who made substantial and reasonable efforts to comply or were unable to compel the child to go to school. It also provided for the cancellation of the child's driver's permit/license for a period of 3 months or until a child turned 16 whichever came first.

What left the Senate is a substantially changed bill. It reinstates the current compulsory attendance language. However, when the State Attorney is notified that there is an alleged violation, the State Attorney has to petition the juvenile court for a determination as to whether a child is educationally deprived. The State Attorney has no longer has any prosecutorial discretion. This bill does still carry the penalties I earlier describe.

Vice Chairman Johnson has allowed me to take a little more of your time to point out a few drafting issues that you might want to address if this bill goes through. On the second page, lines 6 - 8, the bill refers to prosecution for an offense under this section and a reasonable effort to comply with the requirements of this section. The phrase "this section" should be replaced by "this chapter." On the first page, the bill charges each teacher and administrator with enforcement and then on line 11 requires "the administrator" to investigate alleged violations. It would be helpful to clarify on which administrator this duty is placed. On lines 14 & 15, the bill provides if the district does not have a superintendent the county superintendent of schools must be notified. Again it would be helpful to clarify who has the duty to notify the county

superintendent. Finally in looking at the underscored language on page 1, lines 17, 18 and 22, 23, I find that section to be unclear. I think the Senate Education Committee was trying to do was use language from the original bill that references a child that was not in attendance as provided by the chapter and had not been excused in accordance with the chapter or the school's or school district's policies. The compulsory attendance chapter contains one section that requires attendance at a public school and then another section that contains exceptions to the first. Those include attendance at a non-public school, completion of high school, the need to support the child's family, a determination that regular or special education is inexpedient or impractical, or they receive a home education. The references to being excused in accordance with the school's or the school district's policies which could be doctor's appointments, illnesses, games, tournaments, tours, family obligations, etc.

**Rep. Mueller:** There are a number of changes you suggest. Do you have any written stuff that might help us out with the changes you are suggesting?

**Thomas:** I did not do any amendments principally because they have not requested yet. I'm suggesting and I will work with Rep. Johnson and the committee to make sure those are included for your consideration.

**Vice Chairman Johnson:** Would you put something together and work with us on the changes you feel appropriate to have the correct language.

**Thomas:** I would be happy to do that and after the Committee has it's discussion we can do that all in one amendment.

**Anita Decker, director Approval and Accreditation, DPI,** testified in support of the bill.

**(Testimony attached.)**

**Rep. Sitte:** I just think back to last fall when I was doing a 10-week sub at Century and had a student who was there for maybe a week and then gone for three weeks and had never been in the school until the first week of November and been gone for two weeks. Then he came back and got serious about being in school again. At that point we were in Act 5 of Julius Caesar and you don't catch some one up overnight on Shakespeare. I don't know what we are going to accomplish with this. You can compel someone to be there but you can't compel them to learn. We have a population in ND that does move a lot. Is that going to really help?

**Decker:** We have always had those issues. What this law provides is a legal recourse to deal with the issue. It would force another layer of looking at the issue.

**Rep. Sitte:** When I look at subsection 3 and I see it's an affirmative defense if the parents have made a substantial effort but is unable to compel the child. It almost makes me wonder if the parent cannot get this child to attend to school. Maybe he goes strait out the back door or something. I just wondering if we are going to be putting more of a responsibility on this parent when they already have no ability to control. Are we going to be forcing the state's hand in removing the child from the home. I'm wondering what are the other unintended consequences?

**Decker:** I am not sure that there are other unintended consequences. When the child is unruly and is a minor child, responsibility needs to be placed. The child needs to be taken care of and this would provide a means of doing something when nothing else has worked. This would take it to a legal step--the State's Attorney.

**Rep. Wall:** Would this deal with only minor children?

**Decker:** This applies to children covered under compulsory attendance which is ages 7 through

**Rep. Meier:** I want to talk about the penalty phase. The person that would be enforcing it would be the superintendent of each district?

**Decker:** The process now is that the schools deal with it and deal with the parent. If they aren't successful and the child is under 16, this would give a promise or a threat and sometimes that's all that's necessary to see that something is done.

**Rep. Meier:** Would the educator of that student be the authority to send that parent a letter outlining the penalty and these are the consequences if your student doesn't show up in class?

**Decker:** I think part of that is already happening. What's not happening now is there is no hammer if the child continues to be unruly and the parent continues to be unable to make the child attend school. At least this says then the State's Attorney shall be involved.

**Rep. Norland:** I thought this was in place already. When I was principal we filed reports, we went to the juvenile authorities and went to the judge and if students were unruly they ended in the juvenile detention center. The courts placed them there. I don't know where this changes much of that. I do see some other things that Rep. Sitte addressed. You can threaten all you want if the child does not want to go to school you cannot force them.

**Rep. Hunskor:** Based on Rep. Norland's comments, what is the difference between the current practice and this then. Is there a difference?

**Decker:** This says the State's Attorney "shall" do something not "may." In my four years with the department I have yet--the State's Attorney has a heavy workload and doesn't respond. I've not heard from them when I've raised the issue with them. This says they shall do something because it's a community value that children be in school.

**Mary Sandness, student at the U of Mary,** offered support of the bill. (Testimony attached.)

**Doug Johnson, ND Council of Educational Leaders**, testified in favor of the bill. Our council was also actively involved in the amendments that were added by the Senate. Some of the amendments offered by Legislative Council this morning saying research is needed be done and I would be willing to help serve on that committee. I have considerable experience as a middle level principal for over twenty years and addressed truancy issues many times. We do think the change of the word "may" to "shall" is important. When you start working on truancy issues in the juvenile court systems you have to file an unwilling petition for a child. Depending on who the judge is each court looks at it differently. Some say you have to have 5 - 6 truanicies before you can file. Some say fewer. I always used a three pronged approach. The first was to work actively with the parents. That was the most important. The second thing was if we found the parents were balking at the process and falling to whims of the child. Each district should set the days a child could miss. It's recommended that no child miss more than 20 days of school per year. In my school we set five days at every nine weeks. The process was very slow and frustrating. The hardest thing I had to do was to convince the parent to work with me to declare their child unruly. If we could do that because they were not able to control their child we were able to get into juvenile court. This bill would make that process a little tighter. I think the bill gives us some latitude it specifies the administrator it doesn't specify the school superintendent. In our school I did all the truanicies as asst. principal. It would be beneficial to look at the process and how you would administrate that especially in the smaller schools.

**Rep. Hunsakor:** In your opinion, who should be the administrator be? Superintendent?  
Principal?

**Johnson:** Whoever deals with the attendance issues of that particular child.

**Rep. Sitte:** If this law were in place five years ago. How many parents do you think would have been fined?

**Johnson:** My guess is that probably none what they would have done is worked out a solution to get the child to school. Should that child have had recurrent truancies where the parent was not being responsible I think they would have been fined. Where the difference comes is this bill allows us to get into the courts quicker and take care of problems at early stages. You try every conceivable option but they don't always work. I was very frustrated with the slowness of the court process to get to help the child. It's very difficult.

**Rep. Meier:** When you were principal how cases did you have that ended up in court?

**Johnson:** About 2 - 3 each year on average.

**Vivan Schaeffer, Children's Caucus,** commented on the bill. When I first saw it I thought "yahoo" we can now keep these children in school. The more I have listened to comments there are so many sides to this. How many parents do you have to listen to this morning? How many kids do you have? That's where the crux of this whole thing lies. I would ask you to be very cautious about this and do some digging into your own constituents because there are more sides to this than I ever thought there was.

**Carlotta McCleary, executive director of the ND Federation of Families for Children's Mental Health,** testified in opposition of the bill. (Testimony attached.)

**Rep. Meier:** What is the age of your son?

**McCleary:** 16, we have had the problem since age 4. Right now he is pretty stable emotionally. If he were difficult again he is over 6 foot tall and is huge. It was a struggle when he was a little

guy. I can't imagine what we would have to do to do the same things we did when he was much younger.

**Rep. Norland:** This is interesting testimony because there are just a number of children out there that have that same anxiety. Junior high is not easy. They move into where there are big numbers of students. You will find adults that also do not like to be around large groups. We all know when you get to that junior high age that it's not easy if you happen to be singled out and someone doesn't let you into the group. Your anxiety can get a lot heavier a whole lot faster and your desire to attend school that is not fun and not safe and in your situation it's not healthy for you. If someone is telling you you need to go and you think Why?

**Vickay Gross, mother of two teen-aged children,** testified in opposition to SB 2041.

**(Testimony attached.)**

**Rep. Mueller:** In your circumstance have you had an opportunity to visit any of your school administrators about alternative school avenues that might be open to you for your young people?

**Grosz:** I'm doing alternative for my son and my daughter's too young. I have her in Sylvan that is very costly. I have initiated planning and alternatives. It's two months into the year and I've spent all of our flex comp money in medical problems. It's getting stressful. It's very difficult.

**Rep. Mueller:** Has the alternative school in the one case been of help? Has your son been able to bring himself to attend?

**Grosz:** My son has not had a great deal of difficulty with attendance. The school is wonderful. I really like it over there. Our high school is so huge and kids that are dealing with anxiety and depression--my daughter will sneak off and go sit in the lunchroom or the library.

**Rep. Hanson:** How old are your two students?

**Grosz:** My daughter is 15 and my son is 17.

**Rep. Hanson:** Have you tried Big Brother Big Sister?

**Grosz:** We haven't tried that. I'm aware of the program but right now I'm trying to get into the partnership project to get some help.

**Rep. Hanson:** That might be an alternative to give you a break from your kids and let them be with someone else for a day or so. It works well. I suggest you try it.

**Elaine Grasl, District 47, parent,** testified in opposition to SB 2042. I ask you to carefully consider this bill and the effect it could have on children with disabilities and their families. I debated with myself on how to capture the essence of the story without losing the flavor of the human struggle that families face as well as to preserve their values, their dignity, and their privacy. My children now are adults except for one that is an honor student. I respect their privacy. School was like a second home to me and strongly believe in its value. As a parent of five I strongly believe in consequences but for some kids--just think of me a little anxious standing here, a little breathless, standing at the door of the school maybe knees shaking. I want to be here and yet I don't. Maybe there's a bully around the corner. I saw an incident the other day on the playground just as I was driving around the playground. One little girl looked like she was stalking another little girl. I was so proud because like the ad for McGruff a whole crew of other little people came up and surrounded the one little girl and walked off with her leaving the other one standing. We just don't know what occurs in schools someday. Maybe a child doesn't do well in tests or maybe the kid is just depressed to get up or go and is late to school. In our case it was a head injury at church, a head injury at the school, Grandma died (she was

very close to the kids), a sibling nearly dying and being left with a disability, and all of the kids being told by a neurologist before I could put a stop to it that all the kids might have the same chronic disorder, and then a parent's getting sick and nearly dying. That would be me, I was told I had a few hours to live and I had some resentment of the school not thinking that my child should be concerned. This was all in a matter of a few years. We are an extreme sort of family. My child wanted an education and having been denied credits he went on to get a GED. He really wanted to graduate with his peers. Families need a hand up. They need help, they need compassion, they need direction. They don't need a day in court, they don't need further penalty that will traumatize the family. It is better their precious dollars, and believe me when you have a child who has a chronic disability dollars are precious. It's better to put them toward serving health concerns for the family and the child.

**Jim Jacobson, ND Protection and Advocacy Project**, testified in opposition to SB 2042.

**(Testimony attached.)**

**Rep. Meier:** Are you aware of truancy laws in other states?

**Jacobson:** No, I have not researched or looked at those laws. I would add a comment to what Rep. Norland stated earlier in reviewing the existing law. It appears to me the existing law offers all of the alternatives. The difference is that it allows that prosecutorial discretion and taking that out minimizes any expectation that an investigation at the school level identifies really sound reasons to proceed with prosecution.

**Rep. Norland:** The word truancy we are talking about in this situation and about whether other states have definition for truancy or not. There are some words that are very fine. You can take marriage and divorce and it's pretty easy to figure out which is which. In truancy that's a

different situation. If we take a word like may or shall. If I could have found one word that would have changed my job as a principal or superintendent, I would have loved to have found that word. If you take a judge or a lawyer and they will change their job by going from may to shall, they would love to have that word. I don't know if one word is going to do the difference. Another word we can change is truancy. Is this a justified absence. Who makes that determination. Take two women sitting outside your door. One has a husband who makes \$100,000 a year and she is able to stay home with her family. She wants to take her daughter out of school to go shopping. She can take her shopping any day she wants. I can't tell her she can't. I can probably tell her that as my job as the principal I am going to have to classify that as an unexcused absence. Another women who is working 2 or 3 jobs. She probably has 3-4 children at home. She is doing everything possible to try to keep the kids in school and do everything she can do to be a mother. She tells me she finally gets a day off and I'd like to take my daughter shopping. What will I do? Do I treat them both the same? That's what this law is going to do if we pass it. Every scenario in school in different. The last lady who testified said you never know what's going to happen in school--she's right, you don't.

**Jacobson:** Your point is consistent with my testimony. The bill as it stands in current law requires an investigation by a school administrator. I do think it's a problem that this bill is going to make a strong statement that we value education. I don't think there is anything in history that supports that we can legislate values. If we want to support a value, why are we not working to support values that talk about better communication between schools and parents, better partnerships between schools and parents. As the cases we deal with at P & A so often give us examples of, better problem solving between parents and schools and the benefactor is

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House Education Committee  
Bill/Resolution Number **SB 2042**  
Hearing Date **28 Feb 05**

the child. I also work at an adolescent crisis agency. Rarely did we see the intervention of a the juvenile court being in and of itself the fix. It just isn't. It's an intervention but not a fix to the problem.

**Hearing closed.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2042**

House Education Committee

Conference Committee

Hearing Date **1 March 05**

| Tape Number                                  | Side A | Side B | Meter #      |
|--|--------|--------|--------------|
| 1  |        | X      | 2,000 - 3000 |
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| Committee Clerk Signature <i>Jan Prindle</i> |        |        |              |

Minutes:

**Chairman Kelsch opened discussion of SB 2042:** I would like to appoint a subcommittee review this truancy issue. Rep. Mueller, Rep. Johnson, Rep. Meier will be the subcommittee and Rep. Mueller will serve as chair. I will read through the testimony and if we don't think that it's fixable we will have to chalk it up to one of those things that was a good idea but not workable. We'll try to work with Senator Cook to see if there is something that works and run it by some of the people that spoke in opposition. What seemed to precipitate the opposition?

**Rep. Johnson:** There was concern with the penalties for the offenses.

**Rep. Mueller:** The second issue was the "may" and "shall."

**Rep. Sitte:** I talked to Vivian Schaeffer afterwards and she had been working with the young girl, Mary Sandness, from the U of Mary who came to testify and she worked with youth in one of these after school programs and some of the students actually told this young woman "Good

now we'll really have a chance to get our parents into trouble." You know, skip a class and their parents pay \$500 or \$1000. I don't think it's workable.

**Rep. Herbel:** With respect to Sen. Cook's intent on this even at the interim meeting, I had my concerns about it because of circumstances that result from family problems. I think when we start putting that kind of penalty on people that probably in most cases don't have any money to begin with, it's just not going to be workable circumstance. By trying to do that you are going to inflict some pain on those that have legitimate reasons where this happens. There are some family problems and there are some family concerns. I think trying to address all of them and that's what this bill does, I don't think it's fixable in that sense because you can't identify different conditions for each of these.

**Chairman Kelsch:** I think we need to put an effort toward looking at it and addressing some of the concerns. If it's something that just not workable we can deal with it.

**Rep. Hanson:** The class B misdemeanor is pretty flexible it depends on the judge.

**Rep. Norland:** I've sat before Judges and if you get a liberal judge or a conservative judge and that determines everything that's going to happen to that student when you go there. Those words "shall and may" mean nothing. The judge is still in charge. To define truancy is impossible. I would recommend that if Sen. Cook comes up with another bill like this he consult our chairperson first.

**Rep. Meier:** Doug Johnson testified when he was principal at Simle he had three occurrences per year that were actual court cases. I think for these cases to still be dealt with in an individual manner would be very good.

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House Education Committee

Bill/Resolution Number **SB 2042**

Hearing Date **1 Mar 05**

**Rep. Hawken:** There is a problem with families moving and taking their kids out of school and that is something that needs to be addressed. This is more of a welfare system kind of thing and maybe happens more in the Valley where they can jump to MN and then they come back and I have had teachers contact me about that kind of thing. Maybe that's the direction we should go with this. That is a serious issue. There is a pending AG investigation on that type of thing.

**Rep. Mueller:** I can't dispute anything the Committee is saying. I think that there is a concern. There was lady in here during the testimony that I visited with after it was done who came in all for the bill and having heard what she heard she, like us, changed her idea considerably. She did make reference in an e-mail to a 504 Program. I don't know exactly what that is. It deals with this group of at risk students that have other issues going on. I think we should ask the subcommittee to take a look at that and see what that does.

**Chairman Kelsch:** Subcommittee you have heard some sort of direction.

**Adjourn.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

House Education Committee

Conference Committee

Hearing Date **8 March 2005**

| Tape Number                                  | Side A | Side B | Meter #    |
|--|--------|--------|------------|
| 1  | X      |        | 2830 -3240 |
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|  |        |        |            |
| Committee Clerk Signature <i>Jan Prindle</i> |        |        |            |

Minutes:

**Chairman Kelsch opened discussion of SB 2042.**

**Rep. Johnson:** The study group looked at SB 2042 yesterday. The provisions that are in that bill create a problem in that it brings in the State's Attorney to the situation. The money involved in fines to the parents were excessive. With what Rep. Norland shared they were doing in Williston and what can be done, we felt it there were adequate provisions in place.

**Rep. Meier:** We did deliberate about changing some language in the bill but the bill is very strong in language. We decided we should leave the bill in its entirety and put a "do not pass" on it.

**Rep. Mueller:** I agree with Rep. Meier and Rep. Johnson.

**Rep. Norland:** Are you looking for a second?

**Chairman Kelsch:** Rep. Johnson are you moving a Do Not Pass?

**Rep. Johnson:** I move a Do Not Pass.

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**Rep. Norland: I second.**

**A roll call vote was taken.**

**Yes: 13 No: 0 Absent: 1 (Hawken)**

Rep. Norland will carry the bill.

Date: 8 Mar 05  
 Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2042**

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do Not Pass

Motion Made By Johnson Seconded By Norland

| Representatives       | Yes | No | Representatives | Yes | No |
|-----------------------|-----|----|-----------------|-----|----|
| Chairman Kelsch       | ✓   |    | Rep. Hanson     | ✓   |    |
| Vice Chairman Johnson | ✓   |    | Rep. Hunsakor   | ✓   |    |
| Rep. Haas             | ✓   |    | Rep. Mueller    | ✓   |    |
| Rep. Hawken           | 0   |    | Rep. Solberg    | ✓   |    |
| Rep. Herbel           | ✓   |    |                 |     |    |
| Rep. Horter           | ✓   |    |                 |     |    |
| Rep. Meier            | ✓   |    |                 |     |    |
| Rep. Norland          | ✓   |    |                 |     |    |
| Rep. Sitte            | ✓   |    |                 |     |    |
| Rep. Wall             | ✓   |    |                 |     |    |
|                       |     |    |                 |     |    |
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Total (Yes) 13 No 0

Absent 1 (Hawken)

Floor Assignment Norland

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

**REPORT OF STANDING COMMITTEE (410)**  
March 8, 2005 10:48 a.m.

**Module No: HR-42-4375**  
**Carrier: Norland**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2042, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends DO NOT PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2042 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

SB 2042

TESTIMONY: SB 2042  
SENATE EDUCATION  
SENATOR FREBORG, CHAIRMAN  
January 25, 2005

Chairman Freborg and members of the Committee: my name is Carlotta McCleary. I am the Executive Director for the ND Federation of Families for Children's Mental Health. The Federation of Families is a parent run organization that focuses on the needs of children with emotional, behavioral and mental disorders and their families. I am also the parent of a child with a mental health disorder. On behalf of the Federation I am here to testify in opposition to SB 2042.

Approximately 6 to 8 million children and youth in the United States have an emotional, behavioral, or mental disorder in need of treatment. This represents about 12 percent of all children in the U.S. Based on the 2000 federal census, in North Dakota there are approximately 20,613 children who have an emotional, behavioral, or mental disorder in need of treatment. Of these, about half have problems that are severe and persistent.

School attendance is an area that can be impacted by a child's mental health disorder. Partnerships program found that there was a significant issue with school attendance upon intake. My own son had difficulty getting to school. His anxiety along with difficulty transitioning from one setting to another caused him considerably distress. We had to have a lot of assistance getting him to school safely. Other families have not had the assistance we were offered. Their children were charged as a result of an anxiety attack. While other parents actually got their children to school but couldn't get them into the classroom due to an anxiety attack. These children were still charged.

I believe Partnerships Program has been successful in dealing with this issue. Children and their families gained access to needed services by individualizing a plan to meet the child and their families needs. One year after intake their was significant improvement in school attendance.

Our concern with this bill is that it will further criminalize children and their families for symptoms of child's disorder. I would like the children with mental health disorders to have access to treatment rather than access to a court system that is not prepared to meet their needs.

Thank you.

SENATE BILL 2042  
TESTIMONY ON COMPULSORY ATTENDANCE  
by Dr. Kent Hjelmstad  
January 25, 2005

Honorable Chair and members of the Committee, my name is Kent Hjelmstad, Superintendent of Mandan Schools. I am here to discuss the general response to a bill relating to compulsory attendance.

The bill would establish mechanisms to deal with truancy.

I presented an introductory overview of the draft at the summer administrative conference in Grand Forks. Though I am far from an expert on truancy, here are some of the preliminary responses I received and some thoughts:

Our present laws are viewed as not having much effect on truancy.

Schools, both large and small, have problems with truancy. In some cases, it is more of a problem in small schools because of limited personnel and resources.

The general perception is that getting aggressive about truancy is not practical. Some parts of the law make extreme truancy cases a felony. Schools are not generally ready to press the issue to that degree. Having a conch that you will not fire is equivalent of having no weapon at all.

Some administrators, usually principals, were concerned about becoming the heavy.

The idea of putting teeth into a truancy law was a welcome prospect which should be considered.

As this bill is considered, I would encourage that we work with parents. I parents are seeking to facilitate attendance, I hope we don't become parental judges. Punitive action should be for those people who will not cooperate. Sometimes the reasons for a child not attending have to be considered. Religion, health, and family emergencies are just some of the issues which may have to be taken into account.

For older students, student responsibility and cooperation are paramount. The restriction of a drivers license may make an adolescent think twice about defying parents, school, and for that matter society.

Let me tell a story about choices and gum. Long ago, in a land far, far away...

Mark Twain once said, "If you have to swallow a frog, don't look at it too long." This looks like a frog to me. Thank you for being willing to assist schools with truancy problems.

In order to avoid enacting a law which will allow for excessive erosion of the discretionary powers of responsible parents, I thin a couple of additions would be important. I have included them below.

(Script are current language, underlined are proposed additions.)

We need to avoid post facto prosecution. That is, a parent needs to be suitably notified that they are getting into trouble so that they may be moved to act voluntarily before prosecution.

Insert 1 under 15.1-20-03.03.

If the administrator has reason to believe that the person having responsibility for the child has failed to ensure that the child is in attendance, the administrator shall notify the responsible person of intent to prosecute by certified mail. If the responsible person does not ensure the child's attendance after notification, the administrator shall refer the matter to the state's attorney.

To protect the rights of responsible parents,

Insert 2 Under 15.1-20-03.05.

it is an affirmative defense if:

(a.) The person responsible for ensuring the child is in attendance has made substantial and reasonable efforts to comply with the requirements of this section, but is unable to compel the child to attend school, or

(b.) A parent or legal guardian, in removing their child for reasons of health, safety, conscience, alternative educational opportunities or family priorities has made prior arrangements with the school to assure completion of school work assigned during absence or alternative work suitable to the teacher.

I think with these additions, the bill would fit the objectives by providing necessary tools to districts with appropriate balance of power for both administrators and parents.

Insert Under 39-06-01.1.03.

The director shall cancel or prohibit the obtaining of a permit...

**TESTIMONY ON SB 2042**  
**SENATE EDUCATION COMMITTEE**  
**January 25, 2005**  
**by Anita K. Decker, Director**  
**School Approval and Accreditation**  
**Department of Public Instruction**  
**328-1718**

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Mr. Chairman and members of the committee:

My name is Anita Decker. I am the director of School Approval and Accreditation for the Department of Public Instruction. I am here to speak in opposition to SB2042 regarding enforcement and penalties for violation of the compulsory attendance law as stated in NDCC 15.1-20. Our opposition is not with the intent of this legislation but with the remedy.

As the sponsors and supporters of this legislation have outlined, enforcing compulsory attendance is a frustrating part of the duties of a school administrator. It goes without saying that you cannot teach a child if the child is not in regular attendance.

The current statute places the responsibility for school attendance on the person responsible for the child:

*15.1-20-01. Compulsory attendance.*

*1. Any person having responsibility for a child between the ages of seven and sixteen years shall ensure that the child is in attendance at a public school for the duration of each school year.*

The Department uses this statute also when a parent is noncompliant with the state's laws regarding home education or when a school fails to meet the requirements to be an approved school.

Last week, I had the unpleasant task of notifying a school that it could not be approved because it had failed to comply with requirements in law. I followed the law, which requires me to notify the county superintendent of schools. The county superintendent is compelled in the statute to report the noncompliance to the state's attorney. At that point, our frustration is that it appears to be optional for the state's attorney to take action. If the word shall were substituted for the word may on page 1, line 21, perhaps the sponsors of this bill and the Department would not be in front of you today.

Yesterday I visited with a principal who was in town to attend the hearing on SB 2333. She had called earlier with a question about a noncompliant parent who was home educating her child. I asked her yesterday if she had notified the county superintendent. She informed me she had...but then she added, "Not that it will matter."

I believe, as a former teacher, that Steps 2 and 3--page 2, lines 1 through 9--in the proposed legislation are standard operating procedure in schools. Beyond that point, however, it would seem that a court would already have the option of declaring the child "out of control" or "unruly" and adjudicating the

situation, providing whatever penalty it deemed appropriate—including removal of driving privileges.

Several states—including Minnesota—have proposed some kind of truancy penalties such as the loss of a drivers license for teens. It is my understanding that Minnesota's law would apply to all students under the age of eighteen and require that they provide proof when they apply for a license that they are attending school.

North Dakota has over 8,000 students over the age of 16 in our high schools this year. This penalty is aimed specifically at only those who are covered by compulsory attendance (up to age 16), who are not attending school despite their parents' efforts, and who have a driving license.

The problem of poor attendance is one that schools face with all ages of children and one that requires a great deal of ingenuity in combatting. Poor school attendance is often a symptom of a larger problem. I empathize with school administrators as they deal with the issue. Recognizing the dire consequences of students' not completing high school, educators are forever looking for new tools to ensure attendance. The penalty in this legislation applies only to a small number of students in our high schools. What of the others?

If school attendance is a value of the community, a combined focus of the systems within the community would go far to enforce that value. Is it perhaps time to raise the compulsory attendance age to 18? Dropping out of high school has never been a less viable option for students: There is little opportunity for the student without at least a high school diploma. The entire community suffers from such loss.

State law has provided for a "recapture" of lost students through establishment of an alternative high school. Schools, on their part, should also be looking for solutions to the problem. Perhaps regional alternative high schools should be established as part of a joint powers agreement.

If school attendance is a problem that we're serious about, we should be serious about seeing that the existing enforcement mechanisms are being fully utilized. Our office hears of few, if any, instances of action to enforce compulsory attendance by states attorneys.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions.

**TESTIMONY ON SB 2042  
HOUSE EDUCATION COMMITTEE  
February 28, 2005  
by Anita K. Decker, Director  
School Approval and Accreditation  
Department of Public Instruction  
328-1718**

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Mr. Chairman and members of the committee:

My name is Anita Decker. I am the director of School Approval and Accreditation for the Department of Public Instruction. I am here to speak in support of amended SB2042 regarding enforcement and penalties for violation of the compulsory attendance law as stated in NDCC 15.1-20.

Enforcing compulsory attendance is a frustrating part of the duties of a school administrator. It goes without saying that you cannot teach a child if the child is not in regular attendance.

Replacing the word may with the word shall on page 1, line 23, provides a promise and a potential consequence for violation of this law. It signals that the state is serious about children being in school. It does nothing to lessen the efforts of schools and the responsibility of parents to assure that students are in school. Recognizing the dire consequences of students' not completing high school, educators are forever looking for new tools to ensure attendance.

If school attendance is a value of the community, a combined focus of the systems within the community would go far to enforce that value.

Dropping out of high school has never been a less viable option for students:

There is little opportunity for the student without at least a high school diploma. The entire community suffers from such loss.

If school attendance is a problem that we're serious about, we should be serious about seeing that the existing enforcement mechanisms are being fully utilized.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions.

Chairman Kelsch, Vice Chairman Johnson and Members of the House Education Committee,

My name is Mary Sandness. I am a North Dakota resident and a student at the University of Mary. I have been following this bill, and I am here today to testify in support of SB 2042.

I have experience working with youth as a camp counselor. In addition, I am now an assistant program director with an after school program for youth supervised by the Department of Juvenile Services. I am concerned about the youth I work with because I know how important a good education is today. Employers need employees with the skills that only a solid education can provide, and a GED or even a high school diploma just doesn't cut it anymore. Education largely determines a youth's success in later life, and kids need to be in school in order to get a good job.

The youth I work with sometimes don't go to school. They're often truant and I am concerned about them. My attention was caught by this bill. I have been interviewing youth, school administrators, superintendents, principals and other professionals who have extensive experience with the youth this bill addresses. Some youth are difficult to work with because they have a non-caring attitude toward school, work, family, friends, and even life. With this in mind consequences are necessary to keep these kids in school. This bill is a step in the right direction.

I like changing the word "may" to "shall" in addressing State's Attorney enforcement because it gives this bill some strength. It will get the attention of the youth, as well as those parents who are not addressing the problem. I feel allowing parents to go unchecked when they make no effort to get their children to school is

irresponsible, and also unfair to the children. This bill allows for a determination of educational deprivation, if appropriate. These youth need to know someone cares and is willing to make the effort to assure they get a good education. It is also a statement by the state of ND that it values these young people and their education. If the parents are not complying with the compulsory school attendance codes and the state does not take action, the kids think no one is concerned about them. Unfortunately, for many youth in this situation, it would not be the first time. They are often left to fend for themselves.

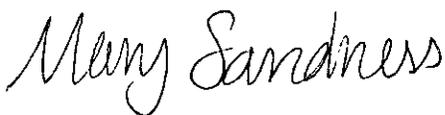
I get the feeling that sometimes people do not give troubled youth a chance. Instead, they give up on them. From working with troubled youth, I know they have hopes and dreams, just like you and me. They want to succeed in life, but they need tools, support, and yes, sometimes consequences to get there. I feel North Dakota should support students by enforcing compulsory attendance laws, for it is only with an education that these kids can become responsible citizens.

Please ask yourself these questions: If no one cared about you, would you have succeeded in your relationships? In your school? In your life? Where would you be without your education, as well as the emotional and financial support from family? How many of you would be sitting here today?

Keep these questions in mind as you vote to do what is best. I urge you to pass SB 2042.

Thank you Senator Kelsch, Vice Chairman Johnson members of the committee for this opportunity to testify in favor of SB 2042.

If you have any questions, I will try to answer them.



Mary Sandness

TESTIMONY: SB 2042  
HOUSE EDUCATION  
REPRESENTATIVE KELSCH, CHAIRMAN  
FEBRUARY 28, 2005

Chairman Kelsch and members of the Committee: my name is Carlotta McCleary. I am the Executive Director for the ND Federation of Families for Children's Mental Health. The Federation of Families is a parent run organization that focuses on the needs of children with emotional, behavioral and mental disorders and their families. I am also the parent of a child with a mental health disorder. On behalf of the Federation I am here to testify in opposition to SB 2042.

Approximately 6 to 8 million children and youth in the United States have an emotional, behavioral, or mental disorder in need of treatment. This represents about 12 percent of all children in the U.S. Based on the 2000 federal census, in North Dakota there are approximately 20,613 children who have an emotional, behavioral, or mental disorder in need of treatment. Of these, about half have problems that are severe and persistent. At any given time, one in every five young people is suffering from a mental health problem. Two-thirds are not getting the help they need.

School attendance is an area that can be impacted by a child's mental health disorder. Partnerships program found that there was a significant issue with school attendance upon intake. My own son had difficulty getting to school. His anxiety along with difficulty transitioning from one setting to another caused him considerable distress. We had to have a lot of assistance getting him to school safely. Other families have not had the assistance we were offered. Their children were charged as a result of an anxiety attack. While other parents actually got their children to school but couldn't get them into the classroom due to an anxiety attack. These children were still charged.

I believe Partnerships Program has been successful in dealing with this issue. Children and their families gained access to needed services by individualizing a plan to meet the child and their families needs. One year after intake their was significant improvement in school attendance.

Our concern with this bill is that it will further criminalize children and their families for symptoms of the child's disorder. While we are pleased that if the court determines that a parent has made reasonable efforts to ensure that the child is attending school the court would dismiss the complaint, we would also like to see that these parents aren't charged with the offense in the first place. In this situation charges would only further traumatize families who are already in crisis as a result of their child's mental health needs. I would like the children with mental health disorders and their families to have access to services rather than access to a court system that is not prepared to meet their needs.

Thank you.

HB 2042  
28 Feb 05

**Senate Bill 2042**  
**House Education Committee**  
**February 28, 2005**

Chairman Kelsch and Members of the House Education Committee:

My name is Vickay Gross and I live in Bismarck with my two teenage children. I am here today to testifying in opposition to Senate Bill 2042 in its current form.

Ten months ago I became a single parent due to the sudden death of my husband. My husband Pat was a wonderful father who spent a great deal of time with his children. As my daughter said "He was not only my father but he was my best friend". His death has been very traumatic for all of us. Simple things now seem overwhelming. Illness that may normally be mild becomes more debilitating. Holidays, family traditions, first times for things and simple things like commercials or TV shows set us back and make everyday things more difficult.

I am telling you this today because my children have missed a lot of school and have been tardy several times since their father died. I am very concerned about this legislation because of its potential to be misused. Families that are already stressed by difficulty in compelling their children to go to school will now have to worry about legal action. I know it is very troubling to me because I do not see in this bill any mention of intervention as a less intrusive approach prior to looking at legal action.

There are other factors to consider as well. What will happen to already strained relationships between families and the schools? Will it have the potential of increasing the drop out rate of students when they turn 16? What fiscal impact will it have on the court system? What economic impact will it have on parents if they need to take time off from work to show an "affirmative defense"? Will a guardian, such as the county, be required to go to court if inadequate services were provided to a child in foster care or other living arrangements? Will the school be held responsible if a parent takes their child to school and the child leaves?

There can be many reasons why a child is truant from school including things that are occurring within their school day. The social structure within our schools today is very different than even ten years ago. The stress can be overwhelming due to bullying, peer pressure, drugs etc. A child could be dealing with depression and/or anxiety, which is not visible on the surface but can be very debilitating. Requiring a family to go to court when a student already has depression and/or anxiety could be devastating. It could make it even harder to help that student return to school. The student may feel unmotivated, lack self esteem and have feelings of hopelessness.

I believe that before we look to the court to address truancy we need to be asking why these children do not want to attend school. Nowhere in this bill is there language that provides for less intrusive ways to address truancy. Are we identifying if students are receiving instruction according to there learning style. Enrollment in the alternative high school in Bismarck is increasing. More and more families are enrolling their children in programs such as Sylvan. Why is this occurring? I believe it is because many students are to function in educational

*Expected*

environments that are not addressing their way of learning. If this bill passes it appears to me that we are telling students who are considered truant that they will go to school and they will like it. It is telling parents that if their children are truant they will face legal action on top of the stress they face every day when trying to get their children to attend school. It relieves the school from responsibility outside of reporting and investigating. It does not take into account whether there is something traumatic occurring within the school such as bullying, difficulty learning or a conflict with an educator.

In closing I ask that you consider voting against this bill or amend it in a way to insure alternatives are looked at before court. I would also ask that this committee consider a study resolution to identify how prevalent the truancy problems is and what gaps in services may exist.

I would like to thank you for the opportunity to share my views on this bill.

SB 2042  
28 Feb 05

**Testimony on SB 2042  
House Education Committee  
February 28, 2005**

Chairperson Kelsch and Committee Members, for the record my name is Jim Jacobson and I am an employee of the ND Protection and Advocacy Project. Thank you for the opportunity to provide testimony on SB 2042.

The ND Protection and Advocacy Project (P&A) is a disability rights protection agency established under federal law. One of P&A's priority areas is education. P&A provided case advocacy to over 150 children with disabilities in fiscal year 2004. In several of these cases truancy was an issue. Over 95% of the cases were successfully resolved through advocacy, which means that the cases were resolved at the school or team level. Often truancy is a symptom of a child's disability. Through effective communication and problem solving by professionals and parents the truancy issue is resolved.

SB 2042 appears to mandate the involvement of juvenile court, requires that parents are charged, and creates no prior requirement that less intrusive steps be taken to resolve the problem. This bill also appears to put a greater burden on the juvenile justice system, criminalizes children and parents and does not encourage greater partnerships and problem solving between schools and parents. For

this reason, P&A encourages a do not pass recommendation by the  
House Education Committee.

Thank you.