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Deanna O'Fallon
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10/22/03
Date

2003 SENATE EDUCATION

SB 2332

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2332

Senate Education Committee

Conference Committee

Hearing Date 2-05-03

Tape Number	Side A	Side B	Meter #
1	x		45.7 - end
1		x	0 - 20.3
Committee Clerk Signature <i>Andrea Johnson</i>			

Minutes: CHAIRMAN FREBORG called the committee to order. Roll Call was taken with all (6) members present.

CHAIRMAN FREBORG opened the hearing on SB 2332 which relates to notice by law enforcement officers of minors' tobacco citations.

Testimony in support of SB 2332:

SENATOR CHRISTENSON, Dist. 18, stated this bill comes out of an educational concern where a school administrator asked to place in code the necessity of notification of violation of tobacco with the school administration. With this bill she hopes to help a child with this problem. SENATOR FREBORG asked if schools are notified when a minor is picked up for an alcohol violation. SENATOR CHRISTENSON stated in most cases, yes.

LEE ZIEGLER, Asst. Principal Century High School, Bismarck, presented testimony. (see attached). SENATOR FLAKOLL asked if the citations reveal where the offense occurred. MR. ZIEGLER stated no, only that there has been a citation given and for what. SENATOR LEE

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Hearing Date 02-05-03

asked what the school does with the information. MR. ZIEGLER stated there are rules in place, especially with the Athletic Association, such as a 6 week suspension for the first offense.

SENATOR FLAKOLL asked if a citation implies wrongdoing? MR. ZIEGLER says it is like a traffic citation and the student would go to municipal court if over 18, to the youth bureau if under 14, and to municipal court if under 18. It is similar to a speeding ticket. SENATOR FLAKOLL asked what if a student decides to go to court and wins. MR. ZIEGLER stated he stands behind the law enforcement officers and would discipline the student. He does not feel the officers would cite anyone without sufficient evidence to warrant it. SENATOR CHRISTENSON stated there is probable cause in statute.

TRAVIS RAU, Bismarck Police Dept., does the report on the number of youth citations in Bismarck. The basics (child's name, date of incident, date of birth, and the charge) from the citations are reported to the school now. SENATOR TAYLOR asked how often the citations are written and how many. MR. RAU stated he reports once a week and there are about 20 - 25 a month.

SUSAN MORMANN, ND Dept. of Health, testified. (see attached)

DAN DONILON, Lieutenant Bismarck Police Dept., Director of the Youth Bureau, supports the bill. He would like it to stay in line with alcohol citations. How a traffic citation works is: age 14 - 17 receive actual citation and go to municipal court, 14 and below are written on a juvenile citation and goes to juvenile court. SENATOR COOK asked at what percent of priority in the department and in the state is the citation of minor for smoking. MR. DONILON stated it is routinely enforced and he receives daily reports. They are trying to stop further abuse and help those in trouble with addiction. The Youth Bureau believes in an early intervention program and

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Bill/Resolution Number SB 2332
Hearing Date 02-05-03

looks as the seriousness of the offense. SENATOR LEE asked if there are sanctions other than those by the Athletic Assn. used in the schools. MR. DONILON does not know.

There was no testimony in opposition to SB 2332.

SENATOR FREBORG closed the hearing on SB 2332.

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Deanna Dally
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2332

Senate Education Committee

Conference Committee

Hearing Date 2-11-03

Tape Number	Side A	Side B	Meter #
1	x		7.5 - 33.5

Committee Clerk Signature *Sandra Johnson*

Minutes: CHAIRMAN FREBORG called the committee to order. Roll Call was taken with all (6) members present.

SENATOR CHRISTENSON presented an amendment for the committee's consideration (30623.0101). She stated that the AG's office had suggested that this bill be put into statute where it will be blended in and would be in line with all the other things in statute. Otherwise it would have been separate and would have been harder to reference. She explained that section 12.1-31-03 references illegal tobacco use by minors, section 15.1-24-03 references how the school would handle a violation. This puts this in code in the proper form.

SENATOR CHRISTENSON moved to adopt the amendment (30623.0101). Seconded by SENATOR TAYLOR.

SENATOR FLAKOLL expressed concern in the presumption of guilt. He feels the students could be penalized before having a fair hearing. SENATOR CHRISTENSON stated they are juveniles and juvenile rules apply. If there is a problem, this provides a means to go for help.

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SENATOR LEE feels it looks like a juvenile is guilty until proven innocent. SENATOR CHRISTENSON stated that in taking the word of the officer, would in effect, be taking the word of an adult over a student. This does not allow for a continuance or stalling.

SENATOR COOK asked about "constructive possession", whether drinking or not, if a student is around it, he is guilty by association. SENATOR CHRISTENSON stated that "probable cause" is a very powerful law enforcement tool that is available.

SENATOR FLAKOLL asked if this changes how juvenile court shares its information. How about the schools and the ND Activities Assn. Are they notified or told. SENATOR CHRISTENSON feels that only expulsion would be on record. She stated information is restricted to administration and counselors now.

SENATOR CHRISTENSON doesn't believe this will cause any great deal of controversy. She stated law enforcement is interested not in punishment but in prevention.

Roll Call Vote: 6 YES. 0 NO. 0 Absent. Amendment Adopted.

SENATOR CHRISTENSON moved a DO PASS as Amended. Seconded by SENATOR COOK. Roll Call Vote: 4 YES. 2 NO. 0 Absent. Motion Carried.

Carrier: SENATOR CHRISTENSON

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FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2332

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad
Code Revisor

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Operator's Signature

10/22/03
Date

30623.0101
Title.0200

Prepared by the Legislative Council staff for
Senator Christenson
February 10, 2003

JCR
2-11-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2332

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 15.1-24-05 of the North Dakota Century Code, relating to law enforcement reports to schools of minors' tobacco citations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-24-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-24-05. Law enforcement agencies - Duty to inform team.

1. A law enforcement agency shall notify a school principal in writing if the agency has probable cause to believe that a student enrolled in the school has violated section 5-01-08, section 12.1-31-03, chapter 19-03.1, chapter 19-03.2, chapter 19-03.4, section 39-08-01, or section 39-08-18. The law enforcement agency shall provide the notice within two weeks of an incident.
2. The principal shall forward the notice to the school's chemical abuse preassessment team or support team referenced in ~~section 15.1-25-03~~ 15.1-24-03.
3. Subsection 1 does not apply if, in the opinion of the law enforcement agency, providing the notice would jeopardize the conclusion of a criminal investigation."

Renumber accordingly

REPORT OF STANDING COMMITTEE (410)
February 11, 2003 2:02 p.m.

Module No: SR-26-2306
Carrier: Christenson
Insert LC: 30623.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2332: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2332 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 amend and reenact section 15.1-24-05 of the North Dakota Century Code, relating to law enforcement reports to schools of minors' tobacco citations.

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Renumber accordingly

2003 HOUSE EDUCATION

SB 2332

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**2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. SB 2332
House Education Committee**

Conference Committee

Hearing Date March 10, 2003

Tape Number	Side A	Side B	Meter #
1		x	2730-end
Committee Clerk Signature <i>Linda Fiechter</i>			

Chairman Kelsch opened the hearing on SB 2332

Sen. Linda Christianson, District 18, Grand Forks

One of the concepts that must be dealt with when we have a public school system, both on the collegiate level, but especially on the public school level. We are responsible ethically, physically for the well being of the students that are in our care. There are a number of tasks we perform in this line of duty that are often very controversial and unpleasant, especially where the kids are concerned. This bill touches on one of those. This bill has been engrossed, it was hog housed from its original form, and done so in a very positive way to put in line with the code to deal with issues of tobacco violation. This bill asks that when a violation occurs and been cited, that the school be notified of the offense. Now you may think that this already happens and in some instances it already does. But it needs to be put in code and to be clarified. In this particular instance, it says that the law enforcement agency shall notify a school principal in writing if the agency has probable cause to believe that the student has been in violation. Some people were uncomfortable with the concept of 'probable cause' because in adult court that is only the open folly, it does not mean guilt or innocence. But I have been assured by my friends in juvenile court

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and in the police departments that a law enforcement official does not cite a violation of tobacco unless they see that person actually smoking and actually lighting up. I think to alleviate any fears or questions that you might have, this is always an actual violation that will occur. The code then asks that the principal or school officials be notified of the violation. And what it does is set in motion a number of things; (all very positive things) While the student may be very embarrassed and very angry and hostile, all of the studies that we have tell us that tobacco is a entry level drug. We can no afford to pass by the concept of a student drinking, using drugs and in this case smoking. Because this is an actual violation of the code. Here we have an opportunity for counseling and or chemical assessment. In other words when a student has been cited as a violator, there is a place where they can go for help and support. And certainly we can not guarantee 100% of success in any program or procedure, at least we are compelled to try. When you have a violation of this nature, it goes to the school in writing and from there the school can pass it on to appropriate personnel who can deal with this student. Issues of privacy have been cited and questioned. Let me assure you that having been in a very large school system for most of my working life, confidential level is very high and very secure. It will not be published in the school newspaper or sent out in the announcements. This is something that is kept private and in code with those who are designated to help. This I view as a positive bill. It certainly will have questions, but the idea here is to put kids on a positive road to receive the needed help that they have along that road.

Rep. Sitte Can we amend it a little bit on line 7 'agency has probable cause to believe that' and then we wind up much closer to what you original said is 'a law enforcement agency shall. . . if a student has violated this section of the code.' That they are not going to call this 'probable

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Hearing Date March 10, 2003

cause' unless they actually saw the student smoking.

Christianson: This was constructed by the Attorney General's office, this is the way we can put it into code to make it most effective and to make it aligned with the other violations. I'm sure if the committee has some concerns about that the AG's office can address them.

Rep. Williams 'probable cause' is what the High School Activities Association handbook uses and is not cut and dry, we conduct our own hearing, but we go by the police recommendations or juvenile recommendations. Probable cause is pretty important to have in there.

Christianson: Very definitely. Probable cause is something we hear mentioned in adult court, according to juvenile, the burden of proof is different and the proceedings. Here we are saying in effect that we will take the word of a law enforcement officer, who witnesses this, over and above the student. The High School Athletics Association, HSAA, has rules about the use of tobacco and alcohol. Students have the mindset that it is not wrong unless you are caught. This bill will also address this.

Lee Ziegler, Assist. Principal at Bismarck's Century High School, See Attached Testimony
Came about by my lack of understanding the current law. Last year as a new assistant principal I was required to work with our students on various issues and many of these had dealt with issues of students who had violated the ND HSAA rules. Law enforcement has been outstanding in their commitment to get the required information to us in a timely fashion. Under current law I was under the impression that the violations were also reported to us. But I didn't know that the only things reported to us were the minors in possession, the consumption of alcohol, open container, driving while intoxicated, sale and possession of marijuana, or other drugs, delivery of a controlled substance and possession of drug paraphernalia. What was interesting to me is that

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students were also given citations of possession of tobacco, but we were not notified of the citations. At this point I spoke to a member of the Bismarck Police Youth Bureau and he gave me a better understanding of why this was taking place and that it was not wrong to notify the schools. Another reason why this is a worthwhile bill is the fact that Century High School like many of the other schools in ND have seen tobacco usage remain very high in their students. In the 2001 Youth Risk Behavior Survey 38% of the student surveyed responded that they had smoked cigarettes 4 or more days in the past 30 days. 16% of the students surveyed said that they had smoked 20 or more days in the past 30 days. Currently at Century High School we are approaching the problem through better education, providing a smoking sensation group to those students who wish to stop smoking, and also having this as part of goals. The goal that states that all students will demonstrate an increase in responsible decision making regarding substance abuse. Which includes alcohol, tobacco, and other drugs. It is our hope that the passage of this bill will help us as school administrators to more effectively perform our jobs and this is another method to help minors from beginning to use narcotics. In the packet there are e-mail's from school administrators and signatures of support.

Rep. Norland Could this have a reverse effect of what your trying to accomplish? A group of kids riding around in a car, pulled over for tail light violation, and with the smell of smoke. Do I write them up for tail light and let them go or do I take my time and also write them up for tobacco and then back at the station I have to write letters to the schools that they attend, Is this too much work for law enforcement and will they not write the violation due to the amount of paper work it will cause for them.

Ziegler: I don't disagree with you completely. Currently local law enforcement personnel feel

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that this will create a lot more work for them. I have spoken to members of the PYB and friends on Burleigh County Sheriffs Department and some of the people that work with the Highway Patrol, and they don't feel that is really any added work for them. Their thoughts are that they are already writing citations, as far as notification, someone has to do. They approach it as being part of their job.

Rep. Haas Legislation could lead to a decrease in the number of kids smoking, and how would that happen?

Ziegler: Students know now that the law enforcement does not have to notify the school or the parents. And making this known, and doing the notifications, it may deter students from smoking.

Rep. Haas you think it may become a deterrent? If this because law, what other things would you do beside contacting parents?

Ziegler: We offer the smoking sensations classes. I think the educational part of it is very important. We actually have a physician who can subscribe a prescription for the patch. I can't speak for the PYB, they also offer a class especially under 15 years of age.

Rep. Jon Nelson Do they offer Speeding sensation classes as well Ziegler: No we don't.

Rep. Williams Why wasn't tobacco included in the 1999 session when we dealt with this.

Chairman Kelsch The law did come through the education committee, we assumed tobacco was included in there.

Rep. Hunskor I coached basketball for a number of years, I received a phone call about one of my players was drinking alcohol, I had to start making phone calls around, spending many hours

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to try to find out details on the situation, whereas this provided a report with a witness. I would have the information first hand instead of way down the road.

Ziegler: I know that the term probable cause came up earlier. One thing that I do want to point out is that at least here in Bismarck, There is a way for the student who feels that they were guilty they could go through an appeals process. There is a set of steps that they can go through if they feel they were not treated fair in this manner. It is very specific in how it is laid out for the students. It is a very emotional, but the student does have that option.

Rep. Mueller Just so I am clear, when a violation of the law is reported to you, that individual if he or she is involved in extracurricular activities, the school policy extension from them goes into place. The penalty is going to be to loose the extra activity for a time period stated in the policy.

What we would happen if you came to find a student who was involved in the sensations class for tobacco, and then a citation happens to the student?

Ziegler: Just because they are in the group doesn't mean that they are guilty, with the confidentiality they are protected. They can be a part of the group without professing any guilt, and it is open to all students not just one that need help. Youthworks also does a chemical abuse class for all kids, those with citations must take the class, but it is open.

Rep. Mueller Are you aware of how often parents are notified of the infractions.

Ziegler: No I don't

Kathleen Mangskau, Administrator for the Tobacco Prevention and Control Program for the ND Department of Health, See Attached Testimony

No Q., Opposition none, closed hearing

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. SB 2332
House Education Committee

Conference Committee

Hearing Date March 11, 2003

Tape Number	Side A	Side B	Meter #
2		x	7767-3702
2		x	4250-end
Committee Clerk Signature <i>Linda Siechman</i>			

Chairman Kelsch opened the committee work on SB 2332.

Rep. Hunsakor: in visiting with all of my superintendent that were there, all of the individuals spoke very highly in favor of this. My only one experience with this, I have had basketball players who have consumed alcohol, and I did not know about it because it wasn't reported to me until weeks afterwards, and then you have to go through this process of calling the sheriff and whoever else to find out. If the report be given within a few days of the tobacco or other violation, it is very obvious the benefits for the school in knowing the information right away.

Rep. Williams I think it was an oversight in 1999 session, or interpreted as such to be included with the alcohol and drug violations, which are currently reported to the school now. One of the points that came up was writing up the citation. If you have ever seen them are very short and if 4-5 kids that are involved the dialogue that goes with them is required to be sent to the parents anyway. Plus a copy comes to the school. One of the problems that we have had is the tobacco violations have not been reported and living next to a boarder. If they are cited in MN. We have a very active juvenile supervisor who gets some of the information. This is a good bill.

Rep. Hanson did we have any law enforcement testify against the bill.

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Chairman Kelsch we only had Sen. Christenson, Lee Ziegler, and Kathleen Mankow

Rep. Hanson did any one get a response from the law. **Chairman Kelsch** no

Rep. Herbel One line 11 you need to notify them within two weeks which is in statute, is that an adequate amount of time?

Rep. Williams We are usually notified right away because the law enforcement is right downtown.

Rep. Herbel Should that window be narrowed?

Chairman Kelsch I think because that is in current statute, it is something that is working.

Rep. Haas I think another huge advantage of this is that it might create some early intervention for youth. And that can't be anything but positive

Rep. Jon Nelson Answer to Rep. Williams question, I think I can vote against this. One thing Christenson said was every case when they are cited they are guilty. That is presumption of guilt bothers me. Because of that citation, to use a situation where someone may have a reason to create a violation to hurt someone. For example in Rep. Hunskor case of basketball, it would eliminate competition by having a violation. There is no appeals process.

Chairman Kelsch On that note, keep that one fresh in your mind.

(4250)**Rep. Williams** 'probable cause' is a legal term relative to juvenile. We don't convict if it is probable cause. If a student is brought into my office and there is a citation, that citation does not make it mandatory that the student is out for 6 weeks. Two springs ago the police stopped a car on Prom night, and one of our students was riding in the car, pulled over. As part of the Prom night check they opened the trunk, there was a case of the beer in the trunk. What ended up happening is that the boy had borrowed the car for the night from his brother. The police cited

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him for possession of alcohol. I talked with the older brother, circumstances as such, the school authority has to make some choices, and I chose to exonerate the boy based on the evidence from his brother & father. I would imagine, and no system is perfect, I would hope that there are not vindictive police, teachers, or citizens, but there is a check and that is the school administrator. He determines whether that person ultimately is cited and penalized at the school level.

Chairman Kelsch Probably cause means 'reasonable trustworthy information sufficient to warrant a person. . . an offense has been or is being committed. This was based on case law from 1988. Vice Chair Johnson asked a question, yes you could find out, or yes the decision would be able to be made if that is what it says in the bylaws. However the difference here is the fact that you don't know if the kids have been cited for the tobacco use. That is where the difference lies, as you don't receive the information, where we receive the information on alcohol and drugs.

Rep. Herbel What would have happened, Rep. Williams if it had been an athlete.

Rep. Williams I would not have cared if it were an athlete or whomever. You judge the offense and the individual, in any handbook, it is not the athletic director that signs waivers, it is the high school administrator.

Chairman Kelsch what happens to guilty by association, if the beer is in the back

Rep. Williams Hillsboro has a zero tolerance, Each school district has there own code to conform with the high school activities code. There is in the HSAA, there is no guilt by association, you can not have that. Some school districts have gone beyond the HSAA, but you can not have guilty by association.

Chairman Kelsch guilty by association then done by that school district or that school board.

Rep. Williams As they usually call it 'zero tolerance'. For example if you are caught drug party,

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House Education Committee
Bill/Resolution Number SB 2332
Hearing Date March 11, 2003

you are done. That is the school boards policy for that school district.

Chairman Kelsch I thought the zero tolerance had to do with NDHSAA.

Rep. Haas I think the word to go back to 'probably cause', I think that itself is a protection actually. Because if you think about a citation being written, and it is given probably cause, if the person who is being cited wants to contest, then they go before a juvenile judge or a court. Then the law enforcement agency has to prove the incident. It actually is more of a protection then it is a indictment when the citation is written.

Rep. Hunskor If this bill was about a minor consuming alcohol, we would have no problem because that is against the law. Use of tobacco by a minor is also against the law, should there be any difference. **Rep. Haas** No, **Rep. Hunskor** we should look at it the same way.

Rep. Hanson motioned a DO PASS, **Rep. Haas** seconded the motion.

Rep. Meier **Rep. Hanson** had brought up the fact that the law enforcement did not testify on this bill, maybe it might be a good idea to get an opinion on this from a law enforcement agency.

Rep. Hawken: The law enforcement track the bill

Chairman Kelsch we would have seen Debbie Ness in here. law enforcement did testify on this bill in the Senate and the bill passed unanimously.

Rep. Mueller **Rep. Meier's** concern is legitimate, except that in code now it requires a parent be notified. So they are going to be notified it is not a stretch to have the schools notified. I do have one concern about this, in line 12 , what does that mean. If this notice comes in he acts on it as he sees fit. But the subsection 2 says it shall be forwarded to the assessment team. But the point I am making here is the bill going to be looking at the facts, is he required regardless to forward the information to the assessment team.

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Deanna Ballin
Operator's Signature

10/22/03
Date

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House Education Committee
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Rep. Williams Almost every school district by policy has an assessment team and it is handled differently in different locations. For example, we have juvenile center right in Wahpeton, the students who are picked up for a violation on drugs, alcohol, or tobacco I may punish them from an extracurricular standpoint however, the juvenile commissioner puts them into classes. In some school districts, that doesn't have a juvenile center in town, they would have it in their school where they may have to go through a booklet and answer some questions, etc. Hopefully teaching them a lesson and help them. Otherwise, if we didn't have something like that, you can penalize them but not punish them, what do you do that is constructive for the student.

Chairman Kelsch The chapter is referenced states: any school may appoint a chemical abuse pre assessment team consisting of a school counselor, social worker, and other appropriately trained individuals, or a school may use a building support team to carry out chemical abuse prevention services under this chapter, the team shall review and act upon law enforcement reports of chemical abuse violations by students. Within 14 days of receiving a report the team shall determine whether to provide to the student or if the student is a minor, to the parent or guardian, information about chemical abuse and school and community services that are available to assist individuals who engage in chemical abuse' that section was put in 1999.

Rep. Haas The was the result of the drug free schools act.

Rep. Hunskor Does the assessment team ever made up of school personnel, or just outside?

Rep. Haas It is always school personnel

Rep. Williams In our school we have taken the guidance counselor and the principal, probably one teacher and if you have this person, the school psychologist.

Roll Vote 13-0-1 Mueller will carry the bill to the floor.

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10/22/03
Date

Date: 3/11/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2332

House HOUSE EDUCATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Hanson Seconded By Haas

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓				
Rep. Johnson	✓				
Rep. Nelson	✓				
Rep. Haas	✓				
Rep. Hawken	✓				
Rep. Herbel	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Hanson	✓				
Rep. Hunsakor	✓				
Rep. Mueller	✓				
Rep. Solberg	AB				
Rep. Williams	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Mueller

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

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Deanna Dally
Operator's Signature

10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
March 11, 2003 4:53 p.m.

Module No: HR-43-4519
Carrier: Mueller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2332, as engrossed: Education Committee (Rep. R. Kelech, Chairman) recommends
DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2332
was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-43-4519

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10/22/03
Date

2003 TESTIMONY

SB 2332

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Operator's Signature

10/22/03

Date

Mister Chairman and Members of the Education Committee,

My name is Lee Ziegler and I am an Assistant Principal at Century High School here in Bismarck. I would like to thank you for this opportunity to speak in favor of Senate Bill 2332.

Before I comment on this Senate Bill I would like to take a moment to thank Senator Linda Christensen. I had contacted her early in the session about this particular idea for a bill and through our visits she felt it was a worthwhile cause. I wanted to voice my appreciation for her efforts.

Senate Bill 2332 came about because of my lack of understanding of the current law. Last year, as a new assistant principal, I was required to work with our students on various issues and many of these dealt with students who had violated NDHSAA rules. Law enforcement has been outstanding in their commitment to get the required information to us in a timely fashion. Current law requires that we are notified with 14 days when a student ~~is~~ receives a citation for the following:

- Minor in possession/consumption
- Open container
- Driving while intoxicated
- Sale or possession of marijuana/other drugs
- Delivery of a controlled substance
- Possession of drug paraphernalia.

What was interesting to me was that students were also receiving citations for Possession of Tobacco but we, as school administrators, were never notified of these citations. It was at this point that I spoke to (Travis Rau) of the Bismarck Police Youth Bureau and he gave me a better understanding as to why this was taking place. Through my conversations with Mr. Rau, I felt that it was worthwhile to see if this could be changed.

Another reason that I see this as a worthwhile bill is the fact that Century High School, like many of the other schools in North Dakota, has seen tobacco usage remain very high among our students. In the 2001 Youth Risk Behavior Survey, 38.2% of the students surveyed responded that they had smoked cigarettes 1+ days in the past 30 days. 16.5% of the students surveyed had smoked cigarettes 20+ days in the past 30 days.

Currently at Century High School we are approaching the tobacco problem through better education, providing a smoking cessation group to those students

who wish to stop smoking, and having this as part of our NCA goals. This goal states that "All students will demonstrate an increase in responsible decision making regarding substance abuse, which includes alcohol, tobacco, and other drugs.

It is our hope that the passage of this bill will help us as school administrators more effectively perform our jobs. It is also our thought that this is another method to help minors from beginning to use tobacco products.

With me I have copies of e-mails and letters of support for this bill from different school administrators. I would like to present these to the Education Committee as added support for this bill.

Once again, thank you for time and effort that has been put into this bill.

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Deanna Waller
Operator's Signature

10/22/03

Date



Bismarck Public Schools
806 North Washington Street
Bismarck, North Dakota 58501
(701)221-3700
Fax: (701)221-3711
www.bismarck.k12.nd.us

DR. PAUL K. JOHNSON
SUPERINTENDENT

JOHN M. SALWEI
ASST. SUPERINTENDENT
SECONDARY SCHOOLS
CURRICULUM INSTRUCTION

RICHARD J. BURESH
ASST. SUPERINTENDENT
ELEMENTARY SCHOOLS
STUDENT SERVICES

EDWIN J. GERHARDT
BUSINESS MANAGER

LISA J. KUDELKA
HUMAN RESOURCES MANAGER

January 30, 2003

A LETTER OF SUPPORT FOR SENATE BILL NO. 2332

Currently schools receive excellent support from law enforcement agencies around the state when encountering minors with alcohol or drug violations. Shortly after an infraction, schools receive written notice of pertinent information.

Even though school personnel are expected to act on tobacco violations by minors as well, we currently do not receive notice and thus are not able to carry out our jobs as effectively as possible.

The undersigned Bismarck Public School secondary principals support passage of Senate Bill No. 2332, which would result in school notification of tobacco violations by minors.

Thank you for your consideration.

Sincerely,

Peter F. Kelly, Principal
Century High School

Rudy Steidl, Principal
Horizon Middle School

Bin Becken
Horizon Middle School

Paul N. Wachtel
Wachtel Middle School

Sherry Heaton
Simel Middle School

Lee F. Fitch, Asst. Principal
Century High School

Thomas Herford
Bismarck High School

Mary Hill, Asst. Principal
Bismarck High School

Kenneth Gibson
Bismarck High School

Scott Lane
Century High School

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Deanna Walcott
Operator's Signature

10/22/03
Date

Unified Court Information System

RUN DATE 2/20/03

BISMARCK MUNICIPAL COURT

PAGE 7

TRAFFIC/CRIMINAL CASE OFFENSES 01/01/02 TO 12/31/02

OFFENSE	ORDINANCE	FILED		PENDING		DISPOSED	
		CASES	COUNTS	CASES	COUNTS	CASES	COUNTS
CONST. SPEEDING (9 MILES OVER)	12-05-11						
CONST. SPEEDING (10 MILES OVER)	12-05-11	27	28	4	4	23	24
CONST. SPEEDING (11 MILES OVER)	12-05-11						
CONST. SPEEDING (12 MILES OVER)	12-05-11						
CONST. SPEEDING (13 MILES OVER)	12-05-11	3	3			3	3
CONST. SPEEDING (14 MILES OVER)	12-05-11	2	2			2	2
CONST. SPEEDING (15 MILES OVER)	12-05-11	4	4			4	4
CONST. SPEEDING (16 MILES OVER)	12-05-11	2	2	2	2		
CONST. SPEEDING (17 MILES OVER)	12-05-11	1	1			1	1
CONST. SPEEDING (18 MILES OVER)	12-05-11						
CONST. SPEEDING (19 MILES OVER)	12-05-11	1	1			1	1
CONST. SPEEDING (20 MILES OVER)	12-05-11	1	1			1	1
REGISTRATION CARD TO BE CARRIED IN VEHICLE UPON EM	12-03-11	3	4		1	3	3
TAIL TO USE HAND/ARM OR SIGNAL LAMPS	12-06-08	2	3			2	3
SALE OR POSSESSION OF TOBACCO UNDER 18	6-07-01	131	141	8	9	123	132
CONST. SPEEDING (21 MILES OVER)	12-05-11	1	1			1	1
CONST. SPEEDING (22 MILES OVER)	12-05-11	1	1			1	1
CONST. SPEEDING (23 MILES OVER)	12-05-11						
CONST. SPEEDING (24 MILES OVER)	12-05-11						
CONST. SPEEDING (25 MILES OVER)	12-05-11						
CONST. SPEEDING (26 MILES OVER)	12-05-11						
CONST. SPEEDING (27 MILES OVER)	12-05-11						
CONST. SPEEDING (28 MILES OVER)	12-05-11						
CONST. SPEEDING (29 MILES OVER)	12-05-11						

13 Under
2002 -> 13 Total

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Operator's signature: [Signature] Date: 10/22/03

TRAFFIC/CRIMINAL CASE OFFENSES 01/01/02 TO 12/31/02

OFFENSE	ORDINANCE	FILED		PENDING		DISPOSED	
		CASES	COUNTS	CASES	COUNTS	CASES	COUNTS
ONST. SPEEDING (9 MILES OVER)	12-05-11						
ONST. SPEEDING (10 MILES OVER)	12-05-11	27	28	4	4	23	24
ONST. SPEEDING (11 MILES OVER)	12-05-11						
ONST. SPEEDING (12 MILES OVER)	12-05-11						
ONST. SPEEDING (13 MILES OVER)	12-05-11	3	3			3	3
ONST. SPEEDING (14 MILES OVER)	12-05-11	2	2			2	2
ONST. SPEEDING (15 MILES OVER)	12-05-11	4	4			4	4
ONST. SPEEDING (16 MILES OVER)	12-05-11	2	2	2	2		
ONST. SPEEDING (17 MILES OVER)	12-05-11	1	1			1	1
ONST. SPEEDING (18 MILES OVER)	12-05-11						
ONST. SPEEDING (19 MILES OVER)	12-05-11	1	1			1	1
ONST. SPEEDING (20 MILES OVER)	12-05-11	1	1			1	1
REGISTRATION CARD TO BE CARRIED IN VEHICLE UPON EM	12-03-11	3	4		1	3	3
FAIL TO USE HAND/ARM OR SIGNAL LAMPS	12-06-08	2	3			2	3
SALE OR POSSESSION OF TOBACCO UNDER 18	6-07-01	131	141	8	9	123	132
ONST. SPEEDING (21 MILES OVER)	12-05-11	1	1			1	1
ONST. SPEEDING (22 MILES OVER)	12-05-11	1	1			1	1
ONST. SPEEDING (23 MILES OVER)	12-05-11						
ONST. SPEEDING (24 MILES OVER)	12-05-11						
ONST. SPEEDING (25 MILES OVER)	12-05-11						
ONST. SPEEDING (26 MILES OVER)	12-05-11						
ONST. SPEEDING (27 MILES OVER)	12-05-11						
ONST. SPEEDING (28 MILES OVER)	12-05-11						
ONST. SPEEDING (29 MILES OVER)	12-05-11						

134 Under
2002 -> 13 Total

0

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Operator's Signature: *[Signature]* Date: 10/21/03

BISMARCK MUNICIPAL COURT
 TRAFFIC/CRIMINAL CASE OFFENSES 01/01/03 TO 02/20/03

OFFENSE	ORDINANCE	FILED		PENDING		DISPOSED	
		CASES	COUNTS	CASES	COUNTS	CASES	COUNTS
CONST. SPEEDING (9 MILES OVER)	12-05-11						
CONST. SPEEDING (10 MILES OVER)	12-05-11						
CONST. SPEEDING (11 MILES OVER)	12-05-11						
CONST. SPEEDING (12 MILES OVER)	12-05-11						
CONST. SPEEDING (13 MILES OVER)	12-05-11						
CONST. SPEEDING (14 MILES OVER)	12-05-11						
CONST. SPEEDING (15 MILES OVER)	12-05-11						
CONST. SPEEDING (16 MILES OVER)	12-05-11						
CONST. SPEEDING (17 MILES OVER)	12-05-11						
CONST. SPEEDING (18 MILES OVER)	12-05-11						
CONST. SPEEDING (19 MILES OVER)	12-05-11						
CONST. SPEEDING (20 MILES OVER)	12-05-11						
REGISTRATION CARD TO BE CARRIED IN VEHICLE UPON EM	12-03-11						
FAIL TO USE HAND/ARM OR SIGNAL LAMPS	12-06-08						
SALE OR POSSESSION OF TOBACCO UNDER 18	6-07-01	12	12	3	3	9	9
CONST. SPEEDING (21 MILES OVER)	12-05-11						
CONST. SPEEDING (22 MILES OVER)	12-05-11						
CONST. SPEEDING (23 MILES OVER)	12-05-11						
CONST. SPEEDING (24 MILES OVER)	12-05-11						
CONST. SPEEDING (25 MILES OVER)	12-05-11						
CONST. SPEEDING (26 MILES OVER)	12-05-11						
CONST. SPEEDING (27 MILES OVER)	12-05-11						
CONST. SPEEDING (28 MILES OVER)	12-05-11						
CONST. SPEEDING (29 MILES OVER)	12-05-11						

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Operator's Signature *D. J. ...* Date 10/22/03

Mon, Feb 3, 2003 7:24 AM

Subject: Re: FROM Lee Ziegler - Senate Bill 2332-Minors' Tobacco Citations

Date: Saturday, February 1, 2003 3:51 PM

From: Mike Ness <Mike.Ness@SENDIT.NODAK.EDU>

Reply-To: Educational Leaders <SDT-EDLEAD@LISTSERV.NODAK.EDU>

To: <SDT-EDLEAD@LISTSERV.NODAK.EDU>

Lee,

I would absolutely support this bill. It would help us deal with some of problems we have with students smoking. We try to enforce the rules pretty closely but it is not always easy.

Thank You!

Mike Ness
Bottineau Superintendent

Mon, Feb 3, 2003 7:25 AM

Subject: RE: FROM Lee Ziegler - Senate Bill 2332-Minors' Tobacco Citations

Date: Friday, January 31, 2003 5:06 PM

From: Gerald Quintus <gerald.quintus@sendit.nodak.edu>

To: <lee_ziegler@educ8.org>

Lee,

I think this is a good bill. In our part of the state, there are few citations for this, but it sure makes things easier for school people to deal with.

Gerald (Gary) Quintus, Superintendent
Richardton-Taylor Public School District
320 Raider Road, P.O. Box 289
Richardton, North Dakota 58652
gerald.quintus@sendit.nodak.edu
Home of the "Raiders"

Page 1 of 1

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Deanna Hall
Operator's Signature

10/22/03
Date

Fri, Jan 31, 2003 3:45 PM

Subject: <no subject>

Date: Friday, January 31, 2003 3:46 PM

From: Robert Marthaller <Robert.Marthaller@sendit.nodak.edu>

To: <lee_ziegler@educ8.org>

Lee - I can not be in attendance for the hearing, but I would definitely support Senate bill 2332. Feel free to use/put my name on the list of supporters.

Robert V. Marthaller, Supt.
Harvey School District
Robert.Marthaller@sendit.nodak.edu
701 324-2265 - office
701 324-4414 - office FAX
693 -5840 - cell
Have A Great Day!

Fri, Jan 31, 2003 3:32 PM

Subject: Re: FROM Lee Ziegler - Senate Bill 2332-Minors' Tobacco Citations

Date: Friday, January 31, 2003 3:22 PM

From: Matt Herman <MHerman@ELLENDALE.K12.ND.US>

Reply-To: Educational Leaders <SDT-EDLEAD@LISTSERV.NODAK.EDU>

To: <SDT-EDLEAD@LISTSERV.NODAK.EDU>

Looks like a good idea. However, it should also be included in century code 15.1-24-05, this is the school notification by law enforcement law.

Matt

Page 1 of 1

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Operator's Signature

10/22/03
Date

Mon, Feb 3, 2003 9:03 AM

Subject: SB 2332

Date: Monday, February 3, 2003 8:57 AM

From: Todd Bertsch <bertsto@fargo.k12.nd.us>

To: <Lee_Ziegler@educ8.org>

Cc: <warnerl@fargo.k12.nd.us>, <lockwed@fargo.k12.nd.us>, <blikrma@fargo.k12.nd.us>

To: ND State Senators

From: Fargo South High School Administration

Re: Senate Bill 2332

Dear Senators,

Fargo South High School would like you to support Senate Bill 2332, that requires law enforcement agencies to automatically report student violations of tobacco products to their school.

We have appreciated the cooperation that we currently have with law enforcement agencies with alcohol violations and we would like to extend the law to include tobacco products.

Thanks for your consideration.

Fargo South Administration
(701) 446-2000

Tue, Feb 4, 2003 1:03 PM

Subject: FW: FROM Lee Ziegler - Senate Bill 2332-Minors' Tobacco Citations

Date: Sunday, February 2, 2003 7:57 PM

From: Diane Olson <diane.olson@ellendale.k12.nd.us>

To: <lee_ziegler@educ8.org>

Lee-

Thanks for taking the time to inform us of the details of this bill. In reading what you have written below, I believe this is a very positive step forward as we (administrators) try to enforce the policies that exist in our schools concerning Drug, Alcohol and Tobacco Use and Abuse. As the 'entire village' works together to assist and protect our children, the combined energies will bring about exponential results, compared to the sum of the separate entities.

I strongly support having Law Enforcement officers notify school officials of minors in possession of tobacco products.

Diane E. Olson
Elementary Principal
Ellendale Public School
W. 1st St., P.O. Box 400
Ellendale, ND 58436-0400
office: 701-349-3232
fax: 701-349-3447
email: diane.olson@ellendale.k12.nd.us

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Diane E. Olson
Operator's Signature

10/22/03
Date

Testimony

Senate Bill 2332

Senate Education Committee

February 5, 2003

9:30 a.m.

North Dakota Department of Health

Good morning Chairman Freborg and members of the Senate Education Committee. My name is Susan Mormann, and I am the Data Manager for the Tobacco Prevention and Control Program for the North Dakota Department of Health. I am here to provide testimony in support of Senate Bill 2332 regarding notice by law enforcement officers of minors' tobacco citations.

In early 2002, Governor John Hoeven formed the North Dakota Commission on Drugs and Alcohol. The Commission's charge was to evaluate substance abuse in North Dakota by exploring the interrelationship among drug prevention programs, designing procedures to coordinate resources, and pursuing future coordination of resources to address substance abuse issues. Drafted as a result of the Drug Commission's recommendations, Senate Bill 2332 is a first step in building a community approach to implementing and enforcing no-smoking regulations and policies.

Tobacco use is a significant public health problem among youth in North Dakota. Tobacco use by North Dakota youth ranks among the highest in the nation. According to the 2001 North Dakota Youth Risk Behavior Survey (YRBS), 35 percent of youth in grades 9 through 12 are current smokers, and 13 percent are smokeless tobacco users. Close to one-half (44%) of the students who are current smokers tried their first cigarette before the age of 13.

According to the Surgeon General's Report on Preventing Tobacco Use Among Young People, nearly all first-use of tobacco occurs before high school graduation. If adolescents can be kept tobacco free, most will remain tobacco free for the rest of their lives. Most adolescent smokers are addicted to nicotine and report they want to quit but are unable to do so. The 2001 YRBS showed that 58 percent of youth ages 14 through 18 have tried to quit in the past year.

The Surgeon General's report states that tobacco use is associated with a range of problem behaviors during adolescence. Smokeless tobacco or cigarettes are generally the first drug used by young people in a sequence that can include tobacco, alcohol, marijuana and hard drugs. Other drug use rarely occurs before the use of tobacco. Adolescent tobacco users are substantially more likely to use

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Susan Mormann
Operator's Signature

10/22/03
Date

alcohol and illegal drugs than are nonusers. Cigarette smokers also are more likely to get into fights, carry weapons, attempt suicide, and engage in high-risk sexual behaviors.

Smokeless tobacco use or cigarette use is often the first time youth break the law. Currently, law enforcement is not required to report minor tobacco citations to schools. With this omission, minors perceive no consequences for their illegal action and accept tobacco use as the norm.

How adolescents perceive their social environment is a strong influence on their behavior. De-normalizing tobacco use can help prevent the onset of smoking among young people. Effective school-based tobacco prevention programs – enhanced by active enforcement, as well as communitywide programs that involve parents and other elements of an adolescent's social environment – are essential in reducing tobacco use among adolescents.

Law enforcement reporting of minor tobacco citations to schools sends a unified message that drug use of any type is not acceptable. Senate Bill 2332 is a first step in enhancing the ability of schools to enforce comprehensive school smoking policies.

Schools can create powerful environments for promoting a nonsmoking norm. In order to be effective, school smoking policies must be vigorously enforced and must consistently administer penalties for violators. Schools, communities and parents working together can promote a tobacco-free norm.

The Department of Health respectfully requests your favorable response to Senate Bill 2332. I am pleased to answer any questions you or other members of the committee may have regarding tobacco prevention and control issues. Thank you.

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Deanna Hall
Operator's Signature

10/22/03

Date

Testimony
House Bill 2332
House Education Committee

March 10, 2003

9:00 a.m.

North Dakota Department of Health

Good morning Chairman Kelsch and members of the House Education Committee. My name is Kathleen Mangskau, and I am the Administrator for the Tobacco Prevention and Control Program for the North Dakota Department of Health. I am here to provide testimony in support of Senate Bill 2332 regarding notice by law enforcement officers of minors' tobacco citations.

In early 2002, Governor John Hoeven formed the North Dakota Commission on Drugs and Alcohol. The Commission's charge was to evaluate substance abuse in North Dakota by exploring the interrelationship among drug prevention programs, designing procedures to coordinate resources, and pursuing future coordination of resources to address substance abuse issues. Drafted as a result of the Drug Commission's recommendations, Senate Bill 2332 is a first step in building a community approach to implementing and enforcing no-smoking regulations and policies.

Tobacco use is a significant public health problem among youth in North Dakota. Tobacco use by North Dakota youth ranks among the highest in the nation. According to the 2001 North Dakota Youth Risk Behavior Survey (YRBS), 35 percent of youth in grades 9 through 12 are current smokers, and 13 percent are smokeless tobacco users. Close to one-half (44%) of the students who are current smokers tried their first cigarette before the age of 13.

According to the Surgeon General's Report on Preventing Tobacco Use Among Young People, nearly all first-use of tobacco occurs before high school graduation. If adolescents can be kept tobacco free, most will remain tobacco free for the rest of their lives. Most adolescent smokers are addicted to nicotine and report they want to quit but are unable to do so. The 2001 YRBS showed that 58 percent of youth ages 14 through 18 have tried to quit in the past year.

The Surgeon General's report states that tobacco use is associated with a range of problem behaviors during adolescence. Smokeless tobacco or cigarettes are generally the first drug used by young people in a sequence that can include tobacco, alcohol, marijuana and hard drugs. Other drug use rarely occurs before the use of tobacco. Adolescent tobacco users are substantially more likely to use

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alcohol and illegal drugs than are nonusers. Cigarette smokers also are more likely to get into fights, carry weapons, attempt suicide, and engage in high-risk sexual behaviors.

Smokeless tobacco use or cigarette use is often the first time youth break the law. Currently, law enforcement is not required to report minor tobacco citations to schools. With this omission, minors perceive no consequences for their illegal action and accept tobacco use as the norm.

How adolescents perceive their social environment is a strong influence on their behavior. De-normalizing tobacco use can help prevent the onset of smoking among young people. Effective school-based tobacco prevention programs – enhanced by active enforcement, as well as communitywide programs that involve parents and other elements of an adolescent's social environment – are essential in reducing tobacco use among adolescents.

Law enforcement reporting of minor tobacco citations to schools sends a unified message that drug use of any type is not acceptable. Senate Bill 2332 is a first step in enhancing the ability of schools to enforce comprehensive school smoking policies.

Schools can create powerful environments for promoting a nonsmoking norm. In order to be effective, school smoking policies must be vigorously enforced and must consistently administer penalties for violators. Schools, communities and parents working together can promote a tobacco-free norm.

The Department of Health respectfully requests your favorable response to Senate Bill 2332. I am pleased to answer any questions you or other members of the committee may have regarding tobacco prevention and control issues. Thank you.

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