

2011 SENATE EDUCATION

SB 2167

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee  
Missouri River Room, State Capitol

SB 2167  
January 19, 2011  
13078

Conference Committee

Committee Clerk Signature

*T. Jorgensen*

## Explanation or reason for introduction of bill/resolution:

Relating to crimes that include bullying and to provide a penalty.

## Minutes:

See "attached testimony."

**Chairman Senator Freborg** opened the hearing on SB 2167; fiscal note attached.

**Senator Marcellais**, District 9, introduce the bill. (See testimony #1) North Dakota is one of six states that do not currently have anti-bullying laws.

**Senator Heckaman:** Is this policy designed on another state model or is it your own design?

**Senator Marcellais:** It is designed on the model of the state of Massachusetts.

**Senator Flakoll:** Does the bill make provisions for hand signals or gestures?

**Senator Marcellais:** Not sure if it does.

**Senator Flakoll:** Does the bill do anything beyond the school's scope or just dealing with the school's range of power?

**Senator Marcellais:** just deals with the school's scope of power.

**Senator Flakoll:** How does this bill differ from the one drafted by the Attorney General's task force?

**Senator Marcellais:** Am not aware of that committees work on this issue.

**Senator Luick:** Is it possible to make this bill cover student issues when they are not in school?

**Senator Marcellais:** It could be amended to cover the issues that occur outside of the scope of the school.

**Senator Luick:** Is it possible to determine when the bullying was done? Sometimes hard to determine when verbal.

**Senator Marcellais:** Agree; internet and messaging time is easy to track as it is automatically time and date stamped, and who the person was. That's why we need those policies and procedures in place; security awareness on the computer itself, train the students what the computer is used for.

**Senator Gary Lee:** Don't most schools have a policy on bullying?

**Senator Marcellais:** Not in our school at Turtle Mountain; not sure if others do.

**Senator Gary Lee:** The bill talks about electronic mail several times, does it limit their use at all in terms of normal use or routine that the school or student may want use them.

**Senator Marcellais:** Believe it is just a learning and education process on how the computers should be used and not abused.

**Senator Lee:** Does it limit their use aside from the disorderly conduct kinds of ways in the bill?

**Senator Marcellais:** No it doesn't limit it under disorderly conduct in the bill itself.

**Senator Mathern, District 11,** spoke in support of SB 2167. Before the bill was introduced, people in Fargo talked to him about some bullying incidents that they were aware of, so he took an interest in finding out what we had available in our state as public policy. When there was the tragic suicide in Cooperstown, some members of the American Federation of Suicide Prevention noted the need for legislation that dealt with bullying.

He asked that group to meet with their federal affiliate to determine what they consider the best anti-bullying legislation in the country. They came back that they thought the best legislation thus far was developed in Massachusetts. This is the reason he became a co-sponsor to this legislation offered by Senator Marcellais. Had a history and a support of public policy from recent years. Believe Senator Marcellais, in the drafting of the bill, did some unique things by looking at things in North Dakota that could be tweaked to address the fact we already have laws on the books to address some things, but how could they be changed to deal with more electronic kinds of things going on. Then the inclusion of the Massachusetts, which is basically an education process on all of our parts. Encourage the committee to work with Senator Marcellais to work on the bill from a Senate viewpoint.

In his history of education and early childhood, he can identify a bully "just like that"; can identify students that were bullied—still in his mind at 60 yrs. Old. Suspect everyone could identify such people that were bullies or were bullied, and sees this bill as a part of the development of our civilization. What do we expect of one another, how do we respect one another, and our next challenge to move forward.

**Senator Flakoll:** Reference Massachusetts law; have they come out with any info that talks about any measureable or tangible improvements they've seen? Good part of the bill

references a reduction or to prevent bullying. Have they experienced any measureable benefits from what they've put into place?

**Senator Mathern:** Does not know that; hope that someone from the American Federation for Suicide Prevention could answer that. My view of the bill is that they took the latest information in terms of what was available; Legislative Council did that in terms of Massachusetts statute. Not a translation of what has happened since that has been in place.

**Robert Vialle, Executive Commissioner: Governmental Relations and Inter-Collegiate Affairs, NDSU Student Government** testified in support of SB 2167 (see Testimony #2)

**Senator Flakoll:** There is a notorious slur chanted at the NDSU football games, and if an opponent reacts in a certain way, the student body normally picks on someone. How will this bill help those students who, in large mass, say a derogatory thing to an opponent and in some cases provide embarrassment for people that bring small children to those games?

**Robert Vialle:** Excellent question; glad you asked. The Walk the Talk program was originally designed in order to deal with the concerns of that particular chant dealing with the #2 opponent. It was a problem they were attempting to actively address. Trying to change the "mood" of it; something that has been around forever and students don't really understand why it is done. Wanted to expand the program to also deal with tolerance and understanding; doing these things is senseless, doesn't do anyone any good, and is an embarrassment for the town and school. Not accepted and won't be tolerated. Passage of bullying legislation will help definitively set for those who feel it has "been there forever"; never going to change, why are we doing this—says that these things are no longer tolerated. We have to be willing to change, and deal with the next generation to change the mindset.

**Senator Flakoll:** The bill references anonymously doing some things, e-mail, etc. As it is set up there are certain sites that allow people to post anonymously. On one hand, some is protected by the 1<sup>st</sup> Amendment rights up to a certain extent; on the other hand, often slips over into derogatory attack mode. How can we clean that up? Any ideas?

**Robert Vialle:** interesting question; with any kind of first generation policy/legislation, anything that is attempted—the first time around there is always those instances where we wonder "where can we fix things?", ensure that we are not hindering certain action here, but once it crosses that line that it falls in that realm. Anonymous comments (news blogs, etc) is very difficult to draw that fine line. Don't have a good solution for this issue! Believe that in future years, such legislation, with the collaboration of this government as well as collaboration of educational systems and input from state citizens, will be able to help clean up that particular language. Has to start somewhere; this gives the foundation.

**Senator Flakoll:** Does anonymity heighten the problem? Seems that people would post or say things that they never think of saying to a person's face.

**Robert Vialle:** Believe it does do that. Even with social networking sites where people can create fake profiles or multiple profiles; it gives individuals who intend ill harm a sense of power that they have never known. States example of the Missouri girl in 2006 that committed suicide due to deception on MySpace.

**Senator Heckaman:** Walk the Talk; indicate the program was conceived, funded, implemented, and competed by students. Specifically students at NDSU or did the program come from an idea from another institution?

**Robert Vialle:** created by students at NDSU.

**Senator Heckaman:** Are you considering taking that program down into the secondary or elementary levels? Are students volunteering to go into schools with the program or doing more with it?

**Robert Vialle:** At this point, the student government has been contacted by schools in the Fargo area to understand what the program is, what was used to implement it and try to take something away from it to use. Some other university systems also expressed interest so are working with them to create similar programs that fit their needs and concerns. Success that has expanded well past the parameters that the students originally planned.

**Senator Heckaman:** What has the NDSU student body considered about the penalty clause in the bill?

**Robert Vialle:** Not legal experts, but from their understanding they would hope whatever penalties are created through legislation should be stringent, consistent, done throughout, and match with what is being done. In some minds, make sure that people understand if it is a No Tolerance policy people understand there are severe consequences to it. Believe the state of NJ has legislation that is considered the most stringent in receiving a consequence.

**Jack McDonald, lobbyist for North Dakota Non-Public Schools:** they support efforts to prevent bullying; want to point out that includes non-public schools but the joint commission on bullying has no representation of non-public schools. Ask that as bill is considered; think about non-public representation on that commission.

There was a question whether this pertains just to schools, and the intent of the bill aims at schools and curriculum, and policy and procedures; at the same time the first few sections of the bill are to amend criminal code. Those laws are not school specific, so those laws would prevail any place and any time. If those are amended to enhance laws to cover bully issues, picking up state wide coverage for everything, including the penalties.

**Senator Flakoll:** Believe you also represent the North Dakota Newspapers Association? In that role, the newspapers often have a comment section for stories. As such there could be bullying going on in those comment sections. Do you think the newspapers in North Dakota should make that sourcing information available to act on any bullying situations?

**Jack McDonald:** That is a possibility and has come up many times in courts, and both state and federal courts have dealt with anonymous posters. Two responses to that: First, in many court cases the location of the server is not a part of the newspaper itself but providing a platform or service. Many courts have said it is not the media blog that is responsible. Other courts cases have held that are some situations that have forced the media to reveal, if they can, who the anonymous posters. Complicated issue; the media has no better way to find out about them than anyone else does. Evolving issue.

**Senator Flakoll:** If they can find out who made a threat, do you think that they should provide that info to law enforcement or other officials?

**Jack McDonald:** No, on the first amendment the news media have traditionally not been a part of the law enforcement procedures. It is not up to them to help the law enforcement by doing investigations and trying to find out who committed any crime. News media role is to try and cover the news, not to get involved in law enforcement process. Basic commitment is probably still there from the news media standpoint.

**Senator Flakoll:** One solution discussed was to require people to put their credit card with their login so you have an actual person behind that and not fictitious name. Can tie a name with credibility behind the screen name. Would be more apt to not post derogatory statements if they knew that their identity might be shared. Are there any discussions amongst news media about going to that type of solution?

**Jack McDonald:** Yes, considerable discussion all the time about that. It involved several legal principles; there was a feeling when they first started the comments section, the newspapers tried to edit and control what was posted. Someone would look at it before it went on the site. Then the courts said if they are getting involved in it, then you become a part of the blog. Papers decided not to do that; they became concerned and tried to keep certain comments off, but again the courts said if you are editing/blocking comments, then you are responsible. No real resolution yet.

**Senator Gary Lee:** Can non-public schools engage or approach the issue differently in terms of policy, procedure, interaction than the public schools?

**Jack McDonald:** Possibly could be; the non-public schools usually have more family type student body and parent group—they are normally a very close group, and may be able to do some things by a joint effort that may not be possible in a very large public school. Very committed just as the public schools are to try and stop this.

**Senator Flakoll:** Do you believe the bill would cover a situation where a student and/or a teacher at a sporting event wasn't pleased with a call that an official made, and they may say derogatory things either as a group chant; is that covered by this bill?

**Jack McDonald:** comment, but not a legal opinion—initial feeling is that it probably would not; seems geared toward the common definition of what we normally think of as bullying. Things that go on in school; don't believe it would transfer to a sporting arena where a referee is booed, accuse the referee of being blind, etc. Don't think that the way the bill is currently written that it would cover that sort of thing.

**Senator Heckaman:** page 8, lines 11-15—definition of what the school grounds would be. Just clarifying; committee may need to look at this as it may address some of those questions.

**Senator Freborg:** Just to clarify; you are testifying in favor of the bill?

**Jack McDonald:** Yes, we are in favor of the bill, in general. Our group is in favor of developing bullying policy.

**Brenda Lackman, parent from District 34** (see Testimony #3) testified in support of SB 2167. Bullying in elementary school very prevalent. Feel as a parent that it is minimized at the schools; something that has always occurred. Like that parents should be notified; have dealt with this for three years and they were never called. Shared results from a parent magazine that outlines how often students are bullied and we need to do everything we can to help the situation.

**Representative Ed Gruchella, District 45**, became involved in this issue this fall while campaigning. A mother that has a son that was intellectually disabled who was contemplating suicide—possibly had attempted it. He did some research and found that about 40% of kids that are bullied have some sort of intellectual disability. Groups have formed in his area and have debated the issue. Huge problem with social websites, cell phones, etc. turned it from what was innocent teasing to bullying and harassment. Area that really needs to be addressed. Many school districts are already doing the things outlined in the bill, but a lot of others aren't. He worked with the Attorney General on the issue and the House has a bill that is very similar to this one; thinks there are very good things in both bills. Intellectual disability part deserves more support; deserve a little more protection because they are more defenseless in regards to some of the issues.

**Jim Jacobson, Director of Program Services for the North Dakota Protection and Advocacy Project** testified in support of the bill (Testimony #4). Proposes an amendment to include a parent of a disabled child.

**Carlotta McCleary, Executive Director of North Dakota Federation for Children's Mental Health** testified in support of SB 2167 (Testimony #5)

**Valerie Fischer, Director of School Health and Director of Adult Education for DPI**, testified in support of SB 2167 (Testimony #6) There are four bills on bullying which are similar, but have different components. Written testimony offers a definition of bullying, facts and figures regarding cyber bullying, states with cyber bullying laws, and school health statistics.

**Senator Freborg:** can you tell the dollar amount requested in HB 1465?

**Valerie Fischer:** the Fiscal Note for HB 1465 is for FTE \$178,572. It is the same in all bills.

**Senator Luick:** When did legislation regarding this bullying begin in the U.S. **Valerie Fischer:** Believes the first bills were in 1996-1998; we are one of five states that currently

do not have a bill, however, the federal Title IV act has always provided a protection against violence and bullying in the schools. Always operated under the federal law.

**Senator Luick:** Do other state laws include issues 24/7 or just during school time?

**Valerie Fischer:** The schools are only able to control the behavior of students at the time they are under school supervision—daytime, after school program or sporting events. The difficulty has been in that the schools cannot control kids when they are at home, on the internet, or participating in activities that are not always school sponsored or school supported.

**Senator Luick:** This would be a state law; why isn't it being pushed to cover any time it occurs, instead of just on school property on school time?

**Valerie Fischer:** Thinks the intent of this bill with the definitions in the first sections, apply to everybody, anywhere, all the time. But the intent of this bill was to address the bullying and the policy piece at school. A little bit of difficulty reading through the bill from beginning to end; you read the first several sections talking about stalking, harassment, that applies to everyone, any time, no age limitations. Then as the bill moves into the schools, you are looking at just that population that's affected only by schools and specifically as identified. Probably needs to be some clarification.

**Senator Heckaman:** Looking at the report on violence and statistics; is that required reporting on behalf of the schools?

**Valerie Fischer:** Required reporting by all school buildings.

**Senator Gary Lee:** Indicated some states have had laws since 1996; are there any statistics on bullying since the laws were enacted?

**Valerie Fischer:** Doesn't know for sure; no definitive information but can probably get some information as to the impact those bills had.

**Senator Gary Lee:** Your sense of the impact of these laws in general; have they been effective in helping to curb this issue?

**Valerie Fischer:** Yes, bill brings to mind and to the attention of everyone that it is wrong and inappropriate to bully, and there are consequences for doing so. Hope is that in training and awareness that this bill can bring is a change of culture and mindset. Create a climate of civility and people just don't know that it is policy or wrong, but that professional development and programs really can help kids identify why it is right to be nice, and why it isn't right to be mean. Having policy is not enough; got to be a comprehensive approach so people really understand the implications, long and short term, of what bullying can do.

**Senator Gary Lee:** Would like Valerie to provide some of the comparative data that she might be able to find on the states that have had these laws for awhile, and the impact they might have had.



**Valerie Fischer:** Yes, she will do that.

**Senator Flakoll:** How does it work for notification of a non-custodial parent? Many times the custodial parent does not share information with the other parent. May have different thoughts and opinions; how would this play out in terms of the bill?

**Valerie Fischer:** Very good question that could be ironed out in the policy development. Further expanding the language which it is now about notifying parents and the involvement of the parents of the bully versus the parents of the victim.

**Senator Flakoll:** Social sites—students have a variety of ways that they communicate. Smart phones, computer, etc. Some of this is done with school computers, some done at home; are you hearing of parents to say “enough of social networks”? And are hearing of schools that block those social network sites with school computers?

**Valerie Fischer:** Believes schools are doing a very good job now in what they limit during school hours for access to internet; limiting it and certain sites are blocked. Unfortunately they can be accessed from a cell phone. Parents are under the assumption that if the kids are at the computer in their room at night, they are generally doing homework. Kids will tell that the homework is done and they are staying in touch with friends. We always communicate with parents when have the opportunity that parents need to be engaged in their children’s’ education and have frank discussions about how much time they spend on social networks and using the internet, and exactly what is appropriate according to family values as right and wrong.

**Senator Flakoll:** Are you familiar with the term POS?

**Valerie Fischer:** Parent Over Shoulder—kids use to let friends are watching.

**\*\*Charys Kunkel, parent, nurse and college professor from New Salem:** this topic came to her attention two weeks ago when she was approached by her 11 year old daughter’s teacher. Had pages from Facebook that other students had written derogatory remarks about her daughter; her daughter isn’t on Facebook but found out about it at school and was devastated. The teacher took the information the principal but the school couldn’t do anything since it happened outside of school, even though events carried over into the school environment. The teacher chose to inform the parent on her own, and Ms. Kunkel called the parents of the other students involved. Other parents were very receptive and not aware of what their child was posting about others. Need to create public awareness; if parents aren’t aware of what is being said, how can they be educated and provided with resources if they don’t know the problem exists. It was noted that technology allows more children to become victimized, and schools need effective programs to deal with it. Parents & children need to be aware there are several forms of bullying and any form is unacceptable. Ms. Kunkel wants to lend her full support to SB 2167.

No further testimony in favor of SB 2167; testimony in opposition follows.

**Bev Nielson, North Dakota School Board Association:** The association supports bullying legislation, but oppose many aspects of this bill. More preference for another bill being introduced in the house. Three areas of concern are: 1) criminal code and school policy should not be in the same bill. There should be two bills with the criminal code portion going to the Judiciary Committee. 2) Local districts should be able to develop their own programs; DPI should offer support but not prescribe what it should be. 3) Schools have no authority over what students do outside of school time; who makes the determination of bullying—it is very student specific and the school may not have authority over what is being done. The Supreme Court has well defined guidelines; school districts make policy regarding punishment of students (on school property, during school events) and not deal with matters of law. If an administrator does an investigation of a certain act, if they feel it rises to the level of a criminal act (tricky part), it could be reported to law enforcement.

All want this to stop—adults and children; but want to caution for high expectations. Schools cannot prevent this from ever happening. They can be part of the solution, through education and own disciplinary policies, etc. Children's behavior is impacted by many entities—peers, parents, things they hear and see at home, on TV, the internet. Most schools across the state have programs trying to deal with this issue. The ability to harass and stalk is a huge problem especially with anonymity; out of school harassment needs to be part of prevention and planning.

Anything that is decided needs to be realistic and enforceable. Schools only responsible for those things over which they have authority; areas which they can control. Have to also remember that we'll be dealing with the victim's parents AND the offender's parents.

**Senator Flakoll:** Is there any part of this bill you like that wasn't included in the other bills?

**Bev Nielson:** Nothing she is aware of that isn't already in HB 1465.

**Senator Flakoll:** You have referenced local control; how does one balance the requirements when school districts have different policies? For example: West Fargo/Fargo, Mandan/Bismarck, etc. **Bev Nielson:** Each student would be disciplined under their own school's policies.

**Senator Flakoll:** What do you feel is the best route in notifying a non-custodial parent of these issues? **Bev Nielson:** The schools must rely on the legal custodial arrangement when notifying parents of issues in the school.

**Senator Flakoll:** The districts get money for home-schooled students; are they covered under this bill's provisions? **Bev Nielson:** Districts have little control over home schooled students; the only time the policies apply would be when the student takes a course from the school or participates in athletic team.

**Senator Heckaman:** What has the school board association already done to address the issue of bullying? **Bev Nielson:** Districts have policy for harassment and discrimination; other policy is developed as requested. There is very little difference between harassment and bullying; except bullying definition is student specific.

**Senator Marcellais:** You are saying no schools have policy for bullying at this time? **Bev Nielson:** Some do; have developed them themselves or with assistance from North Dakota School Boards Association. **Senator Marcellais:** How many schools do? **Bev Nielson:** No, she cannot. **Senator Marcellais:** Noted that when he was on the school boards at Turtle Mtn. (district & federal) the board members were told to keep everything in policy and out of legislative, because they can change policy and can't change laws as easily. **Bev Nielson** noted that she was not aware of that information being shared with school board members. School policy has a legal factor in that if policy is not followed it can create a liability.

**Doug Johnson, Executive Director, North Dakota Council of Educational Leaders** testified against the bill. Official position was to monitor the bill. Their organization sees the same differences/issues as the School Board Association. The criminal conduct portion should be in the judiciary committee. His organization also worked closely with the Attorney General's office to draft HB 1465; they brought in the high school principal from Stanley, North Dakota as he has specific training in the Swedish Olewus Bullying Method that is in world-wide use and is recognized for its strengths bullying prevention. The principal assisted in the process of drafting HB 1465.

Both bills cover the basic needs that need to be met for school districts to develop policies to put them in place. Vast majority of school districts do have policy regarding bullying. This is a topic at most of the meetings of educational leaders in the state; discussion on policy and how to change it. Getting into helping how bullying policies have to be interpreted by building principals is difficult at times. Council of Educational Leaders have offered 10 training sessions on harassment and bullying, and conducting a civil rights investigation because that is where many of these go. Grants from the federal government have been used to train athletic directors and principals about handling bullying issues and harassment, or how to conduct a conversation with those individuals involved to get a good interview process; step by step two day training session offered. They work closely with school administrations that have had complaints filed with the office of civil rights.

Bev Nielson covered the same objections this organization has; there is need for a bill but feel that HB 1465 meets the needs.

**Senator Flakoll:** What is the name of the Swedish method that the Stanley principal was trained for? **Doug Johnson** OLEWUS method.

**Tony Freier, North Dakota Family Alliance** testified in opposition to SB 2167. Little different perspective to the discussion. Do not oppose bullying legislation but have concerns with this bill regarding the legal aspect and school aspect.

Bullying is far reaching, especially cruel, and many times with tragic outcomes. North Dakota Family Alliance does feel it be recognized as a serious problem and strongly addressed. Believe a good way for schools to address this issue is with strong prohibition against *any* form of bullying for *any* reason against *any* child and in *all* cases. Also want to emphasis that it should be on the wrong actions of the bullies, not on their perceived thoughts or perceived motivations. Believe the administrators need to be cognizant of the

people that are perpetrating the bullying and deal with enforcement of any disciplinary action to that end; make sure policy concentrate on those who are the offenders.

- 1) Parental involvement be considered in the development of policy; make sure it is a part as school districts go through the process; even if they have developed policy and to review it.
- 2) Local school board should be driven by that, and that is where accountability would lie.
- 3) Each school board must develop a policy and set discipline.
- 4) Set an immunity clause for the school districts and language be there to protect the 1<sup>st</sup> Amendment rights.

Specifically about this legislation: Section 1, No Name Calling week could be counterproductive. This bill should not be about individuals but about the actions of those individuals. Also, DPI should furnish some model policy or give help, but not take the responsibility away from local school districts—be a resource and not telling the school district what to do. Section 21 is confusing in regards to that.

Section 20 with the North Dakota Commission—not sure that is necessary?

Section 22 is of huge concern as far as putting into place a social and emotional learning curricula. Parental area, and is the school teaching the student how to feel and think? May be contrary to what the family may believe.

No further testimony in opposition to SB 2167; **Chairman Senator Freborg** closed the hearing.

**Chairman Freborg** appointed a committee to look at the other bills that are out there to compare with SB 2167; see if there is anything to add or take away from this bill. Committee will be Senator Gary Lee, Chair, and Senators Schaible and Marcellais. Report back as early as possible next week.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee  
Missouri River Room, State Capitol

SB 2167  
January 31, 2011  
13663

Conference Committee

Committee Clerk Signature



## Minutes:

See attached amendments

**Senator Gary Lee** provided proposed amendments to the bill that were drafted by the committee to review all bullying bills. The attached amendments (#1) will rewrite most of the bill to consolidate all the key parts of the other bills. Provide a definition of bullying, information for schools to include in policy, DPI could create a template that could be followed, training to be included, prevention plan/language to educate teachers and students, and immunity language for those that report bullying activities. At least four bills on bullying and this is an attempt at a comprehensive bill that meets the needs from all the bills.

**Senator Flakoll:** Section 6 immunity; if the person doing the bullying is a teacher, bus driver, other school employee, does this create an immunity for those persons? **Senator Gary Lee:** Those who do the bullying would still be subject to penalties (civil).

**Senator Flakoll:** Would this cover bullying between employees, or mainly someone else and a student? **Senator Gary Lee:** The intent is between students, but an individual school district could choose to include that if they wish.

**Senator Gary Lee:** Move the amendment 11.0210.01001 do pass; second by Senator Flakoll. Motion carried 7-0-0.

Senator Heckaman moved for a Do Pass as amended, Rerefer to Appropriations to SB 2167. Second by Senator Marcellais.

**Senator Flakoll:** How does this affect the fiscal note? Do we need to rerefer to Appropriations? Original bill had \$178,572? **Senator Gary Lee:** We didn't deal with the fiscal note. Not sure; should be less money. **Senator Flakoll:** Will likely get a new fiscal note; will come from the floor if nothing else. **Chairman Freborg:** Let's see if we can get a new fiscal note; won't hold the bill up for it.

Motion carried 7-0-0; Senator Marcellais will carry the bill.

# FISCAL NOTE

Requested by Legislative Council  
02/02/2011

**REVISION**

Amendment to: SB 2167

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendments removed the fiscal impact to the department.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

**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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Valerie Fischer	<b>Agency:</b>	Public Instruction
<b>Phone Number:</b>	328-4138	<b>Date Prepared:</b>	02/03/2011

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2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Valerie Fischer	<b>Agency:</b>	Public Instruction
<b>Phone Number:</b>	328-4138	<b>Date Prepared:</b>	02/02/2011

# FISCAL NOTE

Requested by Legislative Council  
01/12/2011

Bill/Resolution No.: SB 2167

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$178,572	\$0	\$185,714	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the ND Department of Public Instruction to develop model policy templates, provide training and professional development, collect policies, collect LEA data, provide reports to all LEAS, and actively serve on task force/commission.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

To carry out the bill provisions, it is necessary to hire one (1) FTE to conduct these requirements. There are multiple references to the role DPI will assume in this bill and the activity required with the LEAs.

**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.*

\$178,572; cost of one (1) FTE at grade 13 (assistant director) and benefits for biennium (\$148,572); operating and related expenses as it relates to travel, professional development, updates in the current data collection system, material development and dissemination (\$30,000). Expenditures for 2013-2015 include 4% for staff increase. This will require one (1) FTE that is not currently available in the department.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

There is currently no appropriated funds for the FTE needed to comply with the bill intent of SB 2167.



<b>Name:</b>	Valerie Fischer	<b>Agency:</b>	Public Instruction
<b>Phone Number:</b>	328-4138	<b>Date Prepared:</b>	01/17/2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2167

Page 1, line 1, replace "a new section to chapter 1-03, two new sections to" with "seven new sections to chapter 15.1-19 of the North Dakota Century Code, relating to bullying"

Page 1, remove lines 2 through 6

Page 1, replace lines 8 through 24 with:

"SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Bullying - Definition.**

As used in this Act, bullying means:

1. a. Conduct that occurs in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, at a schoolbus stop, or at any public school or school district sanctioned or sponsored activity or event; and which:
  - (1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;
  - (2) Places the student in actual and reasonable fear of harm;
  - (3) Places the student in actual and reasonable fear of damage to property of the student; or
  - (4) Substantially disrupts the orderly operation of the public school;  
or
- b. Conduct that is received by a student while the student is in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, at a schoolbus stop, or at any public school or school district sanctioned or sponsored activity or event; and which:
  - (1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;
  - (2) Places the student in actual and reasonable fear of harm;
  - (3) Places the student in actual and reasonable fear of damage to property of the student; or
  - (4) Substantially disrupts the orderly operation of the public school.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

## Bullying - Prohibition by policy.

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, at a schoolbus stop, or at any public school or school district sanctioned or sponsored activity or event, a student may not:
  - a. Engage in bullying; or
  - b. Engage in reprisal or retaliation against:
    - (1) A victim of bullying;
    - (2) An individual who witnesses an alleged act of bullying;
    - (3) An individual who reports an alleged act of bullying; or
    - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
  - a. Include a definition of bullying that at least encompasses the conduct described in section 1 of this Act;
  - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation;
  - c. Establish procedures for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
  - d. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
  - e. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;
  - f. Establish strategies to protect a victim of bullying, reprisal, or retaliation;
  - g. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation; and
  - h. Establish procedures for notifying the parents of each student involved in an incident determined by school district personnel to constitute bullying, reprisal, or retaliation.
3. In developing the policy required by this section, the school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, the school district shall:
- a. Ensure that the policy is explained to and discussed with its students;
  - b. File a copy of the policy with the superintendent of public instruction;
  - c. Make the policy available in student handbooks, personnel handbooks, and on the school district website;
  - d. Provide a copy of the policy to the parent of each student enrolled in the district;
  - e. Provide a copy of the policy to any person upon request; and
  - f. Provide to the parents of each student enrolled in the school district information regarding:
    - (1) The dynamics of bullying;
    - (2) Cyber-bullying and online safety; and
    - (3) Ways in which parents can support the school district's policy prohibiting bullying.

**SECTION 3.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Superintendent of public instruction - Bullying prohibition - Development of model policy.**

Before January 1, 2012, the superintendent of public instruction shall consult with the North Dakota school boards association and the education standards and practices board and:

1. Develop a model policy to prohibit bullying; and
2. Propose strategies pertaining to the prevention of bullying for incorporation in teacher preservice training courses.

**SECTION 4.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Professional development activities.**

Each school district shall provide training in the prevention of bullying to its teachers through professional development activities and to all volunteers and nonlicensed personnel who have significant contact with students.

**SECTION 5.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Bullying prevention programs.**

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve and shall provide documentation regarding its bullying prevention programs to the superintendent of public instruction, at the time and in the manner directed by the superintendent.

**SECTION 6.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Causes of action - Immunity.**

1. This section does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This section does not create or alter any civil cause of action for monetary damages against any person or school district, nor does this section constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the school district employee or official designated in the school district policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 2 of this Act and substantially complied with that policy."

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 30

Page 5, remove lines 1 through 30

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 30

Page 8, remove lines 1 through 28

Page 9, remove lines 1 through 29

Page 10, remove lines 1 through 29

Page 11, remove lines 1 through 30

Page 12, remove lines 1 and 2

Page 12, remove lines 10 through 29

Page 13, remove lines 1 through 30

Page 14, remove lines 1 through 9

Renumber accordingly

#1 SB 2167



Date: 1/31/11  
Roll Call Vote # 1B

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2167

Senate Education Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Marcellais

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

**REPORT OF STANDING COMMITTEE**

**SB 2167: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2167 was placed on the Sixth order on the calendar.**

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3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 2 of this Act and substantially complied with that policy.

**SECTION 7.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Internet safety measures - Policy requirement - Parental notification.**

The board of each school district shall develop and implement a policy setting forth internet safety measures designed to protect students from inappropriate subject matter and materials that can be accessed via the internet. The board shall provide a copy of the policy to the parent of each student enrolled in the district."

Renumber accordingly

2011 HOUSE EDUCATION

SB 2167

## 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

SB 2167  
03/14/11  
15358

Conference Committee

Committee Clerk Signature



### MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on SB 2167.

**Sen. Richard Marcellais:** Sponsor. (Testimony attachment 1).

**Vice Chair Lisa Meier:** In section four you require each school district to provide training for prevention of bullying. How many hours of training are you suggesting in that section?

**Sen. Richard Marcellais:** I feel it should be included in the required mandatory forty hours of school board training that is available and also the orientation for staff at the beginning of school. That could be eight hours, sixteen hours, or whatever is appropriate.

**Vice Chair Lisa Meier:** You would require that every year?

**Sen. Richard Marcellais:** I would require a refresher course every year.

**Rep. Karen Rohr:** You mentioned in your testimony that we are one of six states that doesn't have a bullying law. Did you model this after a certain state?

**Sen. Richard Marcellais:** Yes I did. I modeled it after the state of Massachusetts.

**Chairman RaeAnn Kelsch:** That was the bill as you introduced it. The senate hog hosed it and modeled it after the bill we passed out of the house; HB 1465.

**Rep. Brenda Heller:** In section seven are students right now able to use the internet during school hours?

**Sen. Richard Marcellais:** As far as I am aware it is available to the students right now. I sit on a local school boards and that is what I am told.

**Rep. Brenda Heller:** So they are able to use the internet beyond research or finding answers to a particular problem? What are you referring to in section seven as far as internet?

**Sen. Richard Marcellais:** My background is in automated data processing and I think you can access any information you want anywhere, not only in the school system but also at home. Now days it is wireless so you can almost access it any place in the world.

**Rep. Mike Schatz:** I noticed on the map that Montana, South Dakota, and North Dakota are the three that don't have bullying laws. We are so right in so many other ways. I am wondering if we shouldn't leave this alone and stay the way we are.

**Rep. Bob Hunskor:** In section one you talked bout at a school bus stop. There are many bus stops that are not on school property so should there be an addition that says on school property?

**Sen. Richard Marcellais:** That has been amended out on the house side. We did have testimony by the attorney general to include that but I think it is hard to do when the bus stops are away from school property.

**Rep. Bob Hunskor:** Toward section three of your testimony you talk about a model anti-bullying policy. As we heard the other bullying bills earlier their business talked about a policy by DPI and guidelines. Now here it is talking about a model. Is that kind of the same as guidelines? Would the model be used as a guideline for each school? The school draw up their own policy but they wouldn't have to follow the model necessarily but could use it as a guideline.

**Sen. Richard Marcellais:** That is correct. That is just to try and get it standard so we dont' have several hundred different policies.

**Rep. Karen Rohr:** On section five we are talking about bullying prevention programs for K-12. Would that be part of the curriculum?

**Sen. Richard Marcellais:** It wouldn't be part of the curriculum but just an orientation for the students.

**Rep. Mike Schatz:** I have been reading some of the things that Sen. Larsen had sent us and one of the issues was to develop emotional resilience and that children need to be exposed to aggression to learn to deal with it. If we pass a bullying law aren't we getting rid of any kind of aggression towards children and thus hurting them because they don't have any resilience?

**Sen. Richard Marcellais:** I sit on a local school board in Turtle Mountain and the reason I introduced this is because bullying is going on in our schools. I don't care what anybody says it is going on and we just had a conference in Washington with President Obama and 150 families and students out there on bullying. I've received calls from other states that haven't introduced a bill and in particular from legislators out of Montana and they are introducing a bullying bill in Montana.

**Rep. Mike Schatz:** The point being is that we need to educate students to stop being victims. That is the point I am trying to make. If there is no bullying and children don't have

resilience to any aggression towards them, then when they do get it what happens to them?

**Sen. Richard Marcellais:** I believe the victims are not reporting the bullying that is continuing in our schools. I know for a fact it is going on in Mandan. The victims aren't reporting the bullying that is going on and this is going to help that cause.

**Rep. Mike Schatz:** We are supposed to educate the students not to be victims. What we are doing is dealing with bullying but we are not educating the kids that are being bullying to not be bullied and to learn to deal with it in the right ways. I think everyone has been bullied in their life and how you handled it was very important. Did you let that person dominate you or did you somehow deal with it and get to be their friend or address removing the aggression? I am trying to get to that direction of educating our kids.

**Sen. Richard Marcellais:** That is what this bill is about. It is about education and prevention in the bullying arena.

**Chairman RaeAnn Kelsch:** Further questions? Further support?

**Jim Jacobson – Director of Program Services, North Dakota Protection and Advocacy Project:** (Testimony attachment 2).

**Chairman RaeAnn Kelsch:** Questions?

**Rep. Mike Schatz:** Do you think that bullying is a natural state? Does that go on from birth on?

**Jim Jacobson – Director of Program Services, North Dakota Protection and Advocacy Project:** I have not done research on the human dynamics or the human development in terms of bullying. I think if you look at the bullying prevention policies and the issue of learning how to deal with bullying is relevant. I think your question is a relevant question. I attached a sheet that gives some internet sites for bullying prevention programs. The ones that I have looked at teach skills to both sides. It deals with both the person being bullied and the bully.

**Chairman RaeAnn Kelsch:** Further questions? Further support?

**Robert Vallie – NDSU:** (Testimony attachment 3).

**Chairman RaeAnn Kelsch:** Questions? Further support?

**William Woodworth – Lobbyist, NDSA:** (Testimony attachment 4).

**Chairman RaeAnn Kelsch:** Questions? Further support?

**Cynthia Kile:** (Testimony attachment 5).

**Chairman RaeAnn Kelsch:** Questions? Further support?

**Rhonda Cottrell:** (Testimony attachment 6).

**Chairman RaeAnn Kelsch:** Further testimony in support?

**Lisa Anderson:** I am here to support this bill so we can prevent bullying from happening to our children and not just the children with disabilities. My daughter did not have a disability when she entered school. She obtained her disability after an accident in 2007. She was outgoing and in sports and activities. After the accident when she came back to school in January of 2008, life changed. The friends that she had were no longer there. She came from a class of nine. It is hard to be the only one that is left out of everything.

**Rhonda Boehm - NDHIA:** My son Eric also survived a traumatic brain injury. He was a football star, had all kinds of friends, and was in every sport and activity. His eighth grade year he suffered a traumatic brain injury as the result of a car accident. Like Lisa's daughter he was not born with this disability. This happened to him at age 14. His life was turned upside down. He went back to school and his friends were there for probably about six months. After that Eric went through a challenging time because he was left out of everything. His friends were no longer his friends because he was changed. He wasn't the same Eric he was before his brain injury. He was treated rudely, told he was dumb, told he was retarded, and things like that. He sat night after night crying and so did I. Typical teenagers get bullied all the time as well but when you have someone that has a brain injury you look at them and they look normal but for a teen other people don't understand the dynamics. Not only did bullying happen in high school but when my son went to college the same thing happened. Because the kids aren't educated in high school they won't have the education in college either. I ask you for your support on this bill so these young kids and all the kids across North Dakota can live a life without being the victims of bullying like this.

**Vice Chair Lisa Meier:** Can I ask each of you what your children are doing right now?

**Rhonda Boehm - NDHIA:** Eric went to UND. He tried college but because of this memory and cognitive abilities it isn't a possibility right now. In college his first six months were good but after that it was hard because at the college level he was treated very badly. He got into a group of friends that were drinking and doing that kind of thing because nobody wanted anything to do with him because he was different. He struggled but he made it through that. He got a part-time job at Sam's Club and now he is working fulltime. He is independent and he is on his own. He struggles. He is totally isolated. The friendships he used to have aren't there and it started back when he was a freshman in high school.

**Lisa Anderson:** It was a long two and a half years while Hannah came back and tried to attempt high school. We thought about moving her to another school among other options. She told she was strong and she would just deal with it. Now she is attempting to go to college. She is at Trinity Bible College in Ellendale, North Dakota and is in her first year. She struggles but it isn't like it was with her in high school.

**Rep. Bob Hunskor:** Thank you for what you shared with thus. Sometimes the world can be a cruel one. My thoughts are centered on that you come from small communities. I'm



wondering in your communities, and certainly you shared your feelings in your community, if that support materialized?

**Lisa Anderson:** We had some amazing support from our special education department. We had support from the majority of our teachers in the Leeds Public School. We had some that found it hard to work with Hannah. They knew her previous and they weren't able to assist her so that she could learn from somebody that understood her disability.

**Rhonda Boehm - NDHIA:** The faculty and teachers were great. They went out of their way to do everything they possibly could. They had never dealt with brain injury before but they were understanding, they stayed after school to work with Eric, and we had a teacher that came in on Saturdays to work with him. The teachers and faculty weren't the problem. I think we need to get the education to these students to learn to be respectful. This will carry on if they don't learn this when they are in school and it will probably carry on the rest of their lives.

**Rep. John Wall:** I commend you for sharing your stories. Earlier we had a couple of questions about coping skills. What would you tell your children when they would come home and cry about how they were being treated? How did they deal with it and how did you tell them to react?

**Rhonda Boehm - NDHIA:** That is a very good question. I would tell him to try to find some other friends but in a small town it is hard to do. There was only six in his class and probably fifteen above him. He would tell me that it was just how teenagers are and that he would just have to deal with it. He would cry himself to sleep many nights and we just a fifteen year old that used to have friends call him all the time. He fortunately was very strong and still to this day he isn't going to let anything stop him. He has learned that you can't treat people that way no matter what their disabilities are. If you ask high school students about the reasons why they are bullied you will find there are all kinds of reasons. I kept telling Eric to look forward and not to waste your energy on those that are treating you bad. You have to focus on the ones that are good to you. I went to the superintendent one day and asked if there was something we could do and he said that they were kids. He and I had a few words over that and that they need to be educated. Everybody wants to be included.

**Lisa Anderson:** That question is a tough one. With a brain injury when you come home you are exhausted most of the time. Your brain is working two or three times harder than anyone else just to do ordinary, everyday things. For her to attempt to be in high school was huge. When she walked through the door at night she would start throwing things and I knew she had another bad day. We talked, we prayed, and we cried and at the end of the school year, before she was going to graduate, I met with our high school principal, elementary principal, our superintendent and our special education teacher along with the school counselor. I had everything written up on what had happened throughout the year, how I would like to see things handled by the teacher, and how I would like to see the children in our school district educated and be able to accept people with disabilities. Hannah asked me why the children that go to the resource room are treated different than the kids that don't. I think that sums it right up. If a child with a disability can figure that out then it should be pretty obvious.

**Rep. Bob Hunsakor:** This is just a comment. As good as the bill is maybe the state of North Dakota should take up a fund and send you ladies to the school in North Dakota and talk about things like this. I think that would be more effective than any legislation we could ever design.

**Lisa Anderson:** Thank you.

**Rhonda Boehm - NDHIA:** We appreciate that.

**Chairman RaeAnn Kelsch:** Thank you for your testimony. Further support?

**Karen Toavs – 2011 North Dakota Teacher of the Year:** I would like to share some ideas and perspectives from a teacher's point of view. I would have to say that the state of North Dakota is in need of a bullying policy. I teach a school that is quite a bit larger than the two parents' that just shared. I am currently teaching eighth grade and the course of the day I see about 120 students. I can tell you as teachers we are on our toes all the time especially with eighth graders because they are quite creative in the ways that they treat one another and interact. A lot of the bullying that is going on we see and we catch that and we deal with it. One of the things we are severely lacking is a policy that tells us what to do if it is a case of bullying. Quite often if we hear bullying going on we take the students out and visit with them and the principal. There isn't a clearly defined policy with steps and procedures for what happens when a student is being a bully. While we have policies that help us in different violent situations, we don't have a bullying policy. We would like to say that we are on top of things and we can watch kids but I think a part of the fallout with the technology era is that kids are advanced with technology and no matter how on top we are, there are constantly conversations going on underneath that teachers have a hard time following. For myself I have a hard time understanding their texts. We do a lot of collaborative online work where students are asked to pose comments and discussion and sometimes we have to have interpretations because we don't know what they are saying to each other. That can be scary especially if you don't know if bullying is going on or if the conversations are appropriate/adequate or not. This legislation is so important because we need support teachers in making those bullying decisions. It is something that goes on in regular classrooms in schools of all sizes. Your support in creating a bill to deal with that issue would be greatly appreciated.

**Chairman RaeAnn Kelsch:** Questions?

**Rep. Karen Rohr:** First of all congratulations on your award. My question has to do with prevention education that is in all the bills we have reviewed. What do you think the focal point of the education should be that is provided on the prevention of bullying and who should be the target?

**Karen Toavs – 2011 North Dakota Teacher of the Year:** I don't know that you can separate the two. I think especially in middle school kids the role is reversed every other minute. You can't separate it at times. It depends on the situation. It is education for the entire student body. One of the concerns I have is that quite often we are asked what our job is. My job is to teach language arts and that is the response you will get from a lot of teachers. For us where do you put those conversations about bullying? If my job is to

teach language arts is it appropriate for me as a teacher to have those conversations with kids in my classroom? In a lot of cases we don't arrange to have those conversations in the classroom. Instead we hope for an assembly or some kind of meeting place where students are brought together and they get that information. It isn't integrated into the curriculum. I think if what you get is an assembly once a year I don't know how effective that is. I guess it is better than nothing.

**Rep. Joe Heilman:** I just have a comment. If we do pass some kind of bill like this it really is going to be on the young people to make it work. We will be giving the tools but it is up to them to make the change. When we pass the bullying legislation it isn't going to stop bullying but it will give some tools for those involved.

**Chairman RaeAnn Kelsch:** Further support?

**Nancy Byrd:** I have nothing against this bill but please look to the bigger picture. There was a time starting in kindergarten and grade school where there was a list on the wall that said to do this and don't do this. Do to the separation of church and state those were no longer good things so they had to come down. If you take away those things that are instilled in our young children then this is the result. We need to go back to the basics. Slapping hands at this age is too late but it is not too late for the children coming back. It has to be taught in kindergarten. I'm sorry this has nothing to do with the bill but please you people are the head of these rules. Go back and look where this mess started. I'm not saying that bullying didn't happen back then but this has become an epidemic.

**Chairman RaeAnn Kelsch:** Further support? Opposition?

**Bev Nielson - NDSBA:** We are not opposing a bullying bill but we have come to the point in session where we would like to have just one bill to work on and hone so we are working on HB 1465. We would recommend that you give a do not pass recommendation to SB 2167 for that reason.

**Chairman RaeAnn Kelsch:** Questions? Seeing none thank you.

**Sen. Oley Larsen:** (Attachment 7). I am here today again in testimony against this bill. The previous person said they wanted to take the best of either. I am in the opinion to just get rid of all of them. Through my experience and what I have done is usually when you have a problem you come to fix it. This time I did come and fix that. I have been an educator and have been a Teacher of the Year two times actually so I think that I do a fairly good job. Some people get bullied and some people don't. That is the key. Why is it that if there are three overweight kids in class why is it that one only gets bullied? If there are four or five smart kids in class why is it that it is just one or a few that get bullied? The definition in this bill is not bullying but it is harassment which is something we already talk to and deal with on a daily basis. Bully proofing programs require schools to protect students from each other by targeting and eliminating bullies. However if kids need to depend on the school to get rid of the bullies, they are likely to stay victims for a very long time. In contrast, victim proofing teaches kids not to be victims. When they know the simple rules that no one can bully them, their problem will disappear immediately. It is not a big cost. When I heard testimony up here and questions were asked about what was done with the child when that

child was bullied, I thought that was a good question. We have a generational loss of bullying and victim proofing our kids. We has human beings are aggressive in nature but we have lost the ability to victim proof and stand up for ourselves. That is what is lost and that is the key. These laws will separate bullying and turn it into a criminal and punishable act. That is why it will make it worse. This bill was not researched. It was brought up from what state has the most suicide rates and that state is Massachusetts. It is interesting that this bill came from Massachusetts and the bullying programs are no where solved there. If any of these bills would have had any profound help after Columbine we would have had no more school shootings or bullying. That is why I am so against this process. Victim proofing the school is the simplest and most effective program we can find to reduce bullying and prevent violence. It is a truly American system that promotes freedom of speech. It teaches the practice of the golden rule and I don't know if our students even know what the golden rule is anymore. It is consistent with the major principles of wisdom, psychology and religion. The following table is the difference between the victim proofing and bully proofing law. If we have a bully proofing law then that makes the victim rely on the school, staff, parents, co-workers, and anybody else to protect them from bullies. If we have a victim proofing law, that teaches the victim to solve their bully problems all by themselves. A bully proofing law punishes bullies, it makes them angry and vengeful, and it leads to more intense bullying. I entirely believe that this will lead to more intense bullying throughout our state. It categorizes people into virtuous victims and evil bullies. It teaches kids to blame bullies for their problems and it violates the freedom of speech. Victim proofing laws get rid of the victim mentality so kids can become more resilient, independent, and emotionally mature. It totally defuses bullying so there is no retaliation. It allows staff to spend less time enforcing laws and more time teaching. As an educator my brain is wired to empower kids and to teach them to think, learn, and do. My brain is not wired to be a detective or an enforcer of information and rules. That is not how I work. I work with kids and I empower kids.

**Rep. Karen Karls:** Were you present this morning when the two moms stood here with the pictures of their disabled children?

**Sen. Oley Larsen:** Yes I was and I do realize what they are saying. I am not advocating in anyway empowering or saying bullying is great. I am speaking to this law and they said themselves that they don't know what to say. We have lost that educational key point. I want to victim proof the schools because the bully will never leave. As an infant kids are aggressive to each other. At the workplace adults are aggressive to each other. It is the education of how to not be victimized that is the key and that is what is lost.

**Rep. Bob Hunsakor:** I agree with you to educate young people regarding bullying. It seems whatever facet of life you go into that you can experience it but we still need laws and it just seems that in this arena we need a combination of what you are saying but we also need laws. It seems that with this bill teachers will be encouraged to talk to the students in the classroom and schools will be encouraged to bring in professional outside speakers, so the students will gain some education on coping with the bullying issue.

**Sen. Oley Larsen:** Exactly but as you look at the definition in the law, bullying is one thing and harassment and assault are another thing. This bill does not speak to that. The first fix should be the definition. The dictionary has to be opened up and the definition of bullying is

an attempt or the process in which an individual(s) take the dignity of another, taking on a proper sense of pride and self respect of a person, or a blustery, quarrelsome, overbearing person who habitually badgers and intimidates. None of those words are in this bill and that is what I find so frustrating about it. You would think that if we are doing a bullying bill we would at least open a dictionary up and look at what the definition is and use that. When they say kids are being shoved in lockers and things like that, they are not being bullied. They are being assaulted and they are being harassed. The other section I have a problem with is the policy.

**Rep. Brenda Heller:** In the Psychology Today article on page three it talks about school districts are being sued. Have you ever researched that? How many school districts have actually been sued and what have the outcomes been?

**Sen. Oley Larsen:** I have not. When I first started thinking about the bullying policy I think Fargo School District decided to have a cussing policy that if you were in class and were caught cussing, you were sent home for a day or something like that. I found that totally absurd. I educate my students that they are better than that and try to work through and empower them not to use that language. I would imagine that setting these bills and laws into motion will only increase the lawsuits.

**Chairman RaeAnn Kelsch:** With the immunity that is in this bill and HB 1465, while school districts would be accountable, they would have immunity from further charges. I think that Doug Johnson might be able to tell you the number of North Dakota districts.

**Sen. Oley Larsen:** So if a student is being bullied at school and the parents are very upset about that and they decide to take legal action, then the school district will say we have our bullying policy in place and we are sorry that it happened but we are not liable? That sounds absurd. If you are at a school district and you have a teacher that is allowing bullying to go on or they know it is going on, why are they not held accountable?

**Rep. Karen Rohr:** On your Psychology Today the second to last paragraph references the money that is being made by the industry that is producing all the anti-bullying programs. Have you had a chance to review any of those programs to see if they talk about victim proofing and that perspective?

**Sen. Oley Larsen:** My fear with this is that everyone wants to get on the bandwagon with this and will want to sell it. No matter what you do to a bully that bully will never change their thought process until they can understand what it is they are doing. I think as a school district we do a very good job on the bullying part. I can't say we are totally trained or that we have great on-board policy on that. I agree that we have no policy on victim proofing or bullying in the school.

**Rep. Corey Mock:** Would consider victim proofing the school a preventative measure for bullying?

**Sen. Oley Larsen:** It is past a preventative measure. This will allow people to not bully at all.

**Rep. Corey Mock:** But would it be considered a preventative policy? If schools were to implement what you call victim proofing policies, would it be considered preventative?

**Sen. Oley Larsen:** Yes I think it would.

**Rep. Corey Mock:** I am looking at section five that says schools shall provide bully preventative prevention programs to all students and document regularly to the superintendent of public instruction. Wouldn't the school district have the opportunity to research these programs including a victim proofing and implement that? Doesn't this language allow for that?

**Sen. Oley Larsen:** I did put that in there where the word bully is that you also inject victim proofing. We will have all these bully programs unless you put victim proofing in that. But where ever the bullying is it should be accompanied by victim proofing.

**Chairman RaeAnn Kelsch:** When you talked about assault and harassment do you know how willing the state's attorneys are to press charges for an assault or harassment in school districts?

**Sen. Oley Larsen:** I don't really know. I have had some situations with my students where I pushed and encouraged this individual to make these kids responsible for how they treated them. It was a very uphill battle and that was with harassment. I visually saw it, I acted on it, I got hold of all the people involved, and they pushed it aside. It was as though they were more focused on the fact that the student was a senior and would be done with school so it wasn't something to move forward with. That is the feeling I got with my situation. I don't run into bullying every day because I deal with victim proofing my students every day. There will always be situations that are there but I address it through victim proofing and making the victim understand what is happening and what they can change.

**Chairman RaeAnn Kelsch:** Regarding you comment on legislating morality, we do it all the time. That is not something that is new to this legislative body. Further opposition?

**Doug Johnson - NDCEL:** We support a bullying bill but we support HB 1465 so I encourage a do not pass on SB 2167. That is the vehicle we think is working right now and that is my recommendation.

**Chairman RaeAnn Kelsch:** Questions? Further opposition? Neutral testimony? We will close the hearing on SB 2167.

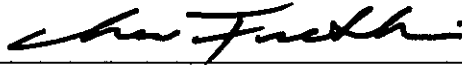
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

SB 2167  
03/22/11  
15813

Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open on SB 2167. I'm not sure that this needed any longer. The senate passed HB 1465 and that is on its way to the Governor for signature. I don't think at this point we need 2 bills.

**Rep. Dennis Johnson:** I think 1465 is signed already.

**Vice Chair Lisa Meier:** I move a do not pass.

**Rep. Karen Rohr:** Second

**Chairman RaeAnn Kelsch:** Committee discussion?

**Rep. Phillip Mueller:** Is there anything different in this bill from what we passed out? Are there pieces or parts here that should have been included in the bill?

**Chairman RaeAnn Kelsch:** There were no significant differences between the 2 bills. Basically what the senate had done was model this after HB 1465. The biggest difference between the 2 bills was the immunity provision that we gave to public and nonpublic and that was the biggest difference. We have a do not pass motion on SB 2167 and we will take the roll. We will close on SB 2167.

**14 YEAS 1 NAY 0 ABSENT**  
**CARRIER: Vice Chair Lisa Meier**

**DO NOT PASS**

Date: 03-22-11  
Roll Call Vote #: \_\_\_\_\_

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2167 engrossed

House EDUCATION Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
Amendment

Rerefer to Appropriations  Reconsider

Motion Made By VICE CHAIR MEIER Seconded By REP. ROHR

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Heilman	X		Rep. Mock		X
Rep. Heller	X		Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz	X				
Rep. Wall	X				

Total (Yes) 14 No 1

Absent 0

Floor Assignment VICE CHAIR MEIER

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



**REPORT OF STANDING COMMITTEE**

**SB 2167, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends  
DO NOT PASS (14 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).**  
Engrossed SB 2167 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2167

**Testimony  
Senator Richard Marcellais  
Education Committee  
Senate Bill 2167**

**Mr. Chairman, members of the Education committee for the record my name is Senator Richard Marcellais, District 9, Rolette County, Belcourt. I appear before you today in support Senate Bill 2167 which relates to crimes that include bullying and to provide a penalty.**

**Section 1 of the bill would require the governor to proclaim the fourth Wednesday in January of each year as Name Calling Day in order to increase public awareness, encourage students to use positive dialogue, promote tolerance and respect for differences and reaffirm commitment of the citizens of the great state of North Dakota.**

**Section 2 of the bill covers the Criminal aspects which include written communication electronically, or through the use of internet, electronic mail, messaging or other similar means.**

**Section 3 of the bill includes transmitted electronically by or through the use of the internet, electronic mail, messaging, fax or by other similar means. A written communication includes the communication of words and images.**

**Section 4 of the bill defines stalking which includes engaging in an intentional course of conduct for the purpose of communicating or causing to be communicated words, images or language, by or through the use of the internet, electronic mail, electronic messaging, or other similar means and requires that the conduct be directed at a specific person, frighten, intimidate, or harass that person, and serve no useful purpose.**

***Section 5 of the bill defines disorderly conduct which is communication by or through the use of internet, electronic mail, messaging, or other similar means.***

***Section 6 requires the superintendent of public instruction to develop an anti-bullying plan with consulting other state departments.***

***Section 7 is for bullying prevention and cost effectiveness reporting.***

***Section 8 includes professional development on bullying prevention and intervention with school staff.***

***Section 9 defines bullying, Cyber-bullying, hostile environment, perpetrator, school grounds and victim.***

***Section 10 defines where bullying may take place on school property or technology.***

***Section 11 is to not allow retaliation of bullying.***

***Section 12 requires each school district to develop a plan to address bullying prevention and intervention with school staff, parents, community representatives, law enforcement agencies, students and the general public.***

***Section 13 identifies the bullying prevention plans content.***

***Section 14 identifies the bullying prevention plan and provision of information to the parents.***

***Section 15 identifies the bullying prevention plan and provision of information to the students.***

***Section 16 identifies the bullying prevention plan and provision of information to employees.***

***Section 17 identifies the bullying prevention plan availability.***

***Section 18 on the duty to report bullying or retaliation incidents to proper school officials, law enforcement and parents.***

***Section 19 requires each school district to develop policy requirements for internet safety measures and notify the parents.***

***Section 20 to establish the North Dakota commission on bullying, identify membership, duties, reimbursement and reports.***

***Section 21 requires standards on bullying prevention.***

***Section 22 covers implementation of social and emotional leaning in each grade from kindergarten through grade twelve.***

***Section 23 requirement instruction on bullying prevention***

***Section 24 individual education program plan skills to avoid and respond to bullying.***

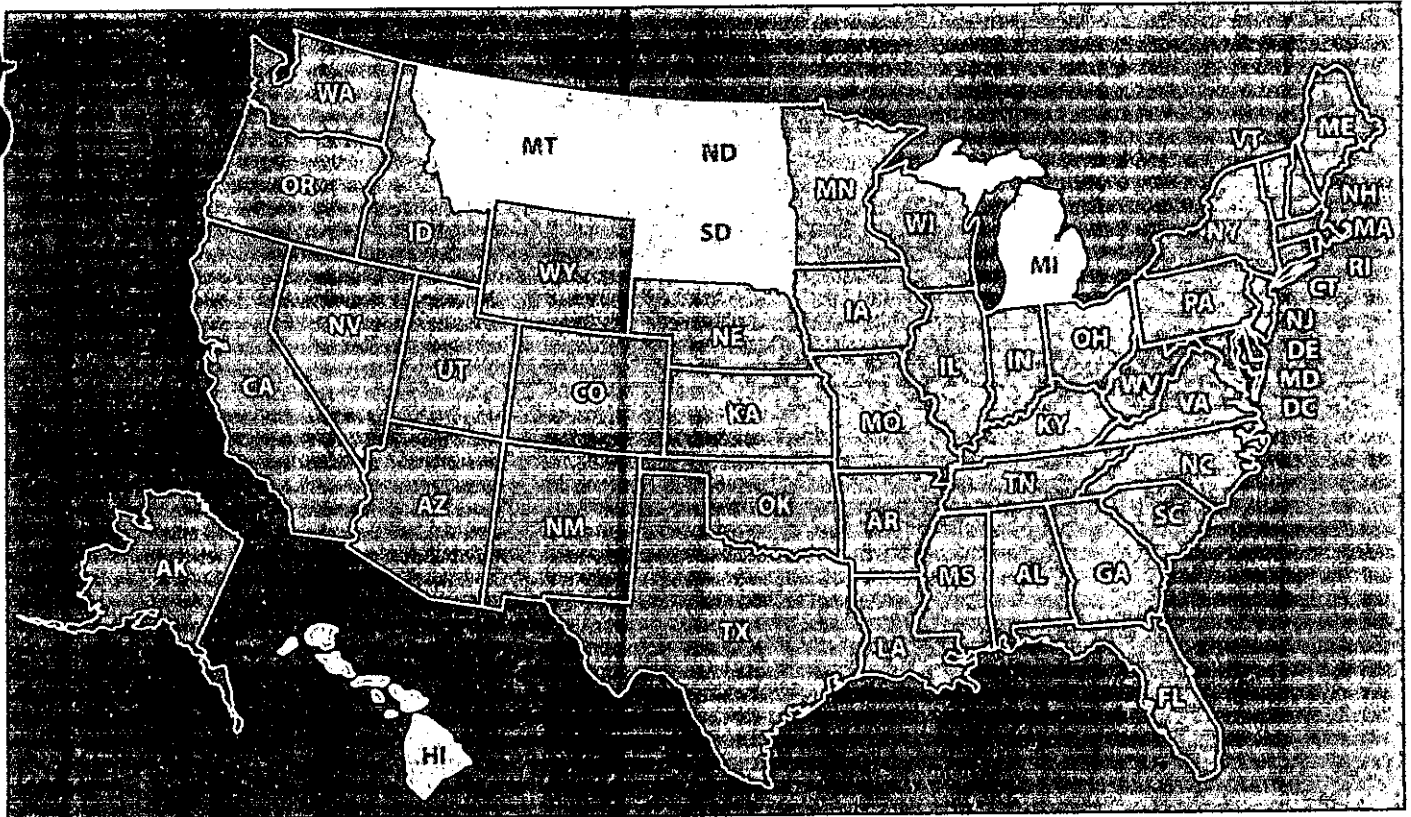
***“Bulling is going on all across the United States and North Dakota is one of six (6) states that doesn’t have a present law to outlaw bulling”***



***Stop Bulling Now Take a Stand & Lend a Hand.***

***Thank You very much for this opportunity, to appear in support of Senate Bill 2167. If there are any questions I will try and answer them.***

***#1 SB2167***

# State Laws on Bullying



-  States with laws on Bullying
-  States with no laws on Bullying

Updated October 2010

To find a specific state law on bullying, go to the Web site for the state legislature and insert bullying as a search term.

## States with laws on Bullying:

- |               |                  |
|---------------|------------------|
| Alabama       | Nebraska         |
| Alaska        | Nevada           |
| Arizona       | New Hampshire    |
| Arkansas      | New Jersey       |
| California    | New Mexico       |
| Colorado      | New York         |
| Connecticut   | North Carolina   |
| Delaware      | Ohio             |
| Florida       | Oklahoma         |
| Georgia       | Oregon           |
| Idaho         | Pennsylvania     |
| Illinois      | Rhode Island     |
| Indiana       | South Carolina   |
| Iowa          | Tennessee        |
| Kansas        | Texas            |
| Kentucky      | Utah             |
| Louisiana     | Vermont          |
| Maine         | Virginia         |
| Maryland      | Washington State |
| Massachusetts | West Virginia    |
| Minnesota     | Wisconsin        |
| Mississippi   | Wyoming          |
| Missouri      |                  |

## States with no laws on Bullying:

- District of Columbia
- Hawaii
- Michigan
- Montana
- North Dakota
- South Dakota

#1 SB2167



**Robert Vallie**

**Executive Commissioner: Governmental Relations and Inter-Collegiate Affairs**

**North Dakota State University Student Government**

**Testimony to the Senate Education Committee concerning Senate Bill 2167**

**January 19, 2011**

Chairman Freborg and members of the Senate Education Committee:

When a person is taken from this world well before they should we do not just lose a single person, we lose a world. We lose a world of possibility, of what could be of what could have been. We lose a world of uncharted potential and unknown wonders. But we also quite literally lose a world in a real sense. With the death of a person we lose a child, a parent, grandparent, sibling, friend, classmate, community member, a good person to share life with.

Since the end of the 1990's society has seen the real effects of a national epidemic that effects every community, every day, and one that has gone on for as long as any of us can remember: The epidemic known commonly as bullying. Bullying everyday effects millions of students who are tormented by their peers and others in a wide variety of ways for a wide variety of reasons. It can be for something readily noticeable such as a physical or mental disability, or as hidden as a person's sexual preference. No matter the reason a person may be bullied or the method that may be used against a person the effects to that individual who is tormented can be serious. Whether that person was attacked in the traditional forms of bullying such as physical or verbal bullying or using the internet or other electronic means to cyberbully creates the same risk for depression and other mental health concerns. But unfortunately bullying a person does not mean you will always get the same result nor is it limited to a small parameter of effects on an individual or even limited to a certain state or states. The examples of the Columbine High School Massacre in 1999 in Colorado, the suicide in 2006 of a 13 year old Missourian Megan Meier who was bullied through the use of the social networking site MySpace, the suicide in September of 2010 of a Rutgers student Tyler Clementi after his roommate filmed him in an intimate situation with another man and the most recent suicide on November 4<sup>th</sup> 2010 in Cooperstown, ND of 16 year old Cassidy Andel all point to the same conclusion: Bullying is a serious problem across America that effects all people, in all states and if left unchecked can cause serious harm to the individuals being bullied or others. For us as students of NDSU we remember our experiences with bullying and even to this day deal with bullying on our campus and in this moment see a wonderful opportunity to help protect the next generaetion of students from the pain that our student body, including me have felt. We believe that passage of such a piece of legislation helps to set definitively in plain language that bullying will no longer be tolerated and gives school districts the necessary guidelines in order to combat this problem and to give students the opportunity to succeed. This law if passed also gives a great opportunity for the entire education system of North Dakota both K-12 and Higher Education to

#2 SB 2167

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work together to help to create the first generation of policies and programs to combat bullying in our schools and to more importantly educate students on the harms of bullying. As previously mentioned we as students of NDSU know all too well the harm that bullying does to students and is still a problem that holds true within our institution. Even for a person like me as a 21 year old Social Science Education Major attempting to serve my fellow students that I have been more times than I care to remember bullied by others on my campus. However with recent events that has taken place on the campus of Rutgers in New Jersey and in the community of Cooperstown, we as students felt that enough was enough and created the Walk the Talk Campaign. Walk the Talk is a program conceived, funded, implemented and completed by students and this program over the course of a week helped to pledge 225 students on our campus to stop from bullying individuals with the use of hurtful words or actions and to actively stop others who they see bullying. Along with these actions a rally held at the end of the campaign was attended by over 200 individuals and received media attention from every major news affiliate in the Fargo-Moorhead area and has lead us to develop anti-bullying programming as well as helping schools within the Fargo area and even the student governments at BSC and UND to develop programs to combat this problem on their respective campuses.

Mr. Chairman and members of the committee I know what you and your fellow legislators face today in this hearing as well as the many hearings that will be done concerning anti-bullying laws will be anything but easy. To combat a epidemic such as this that has been around for as long as anyone can remember and to remove the mentality that bullying is just "The way it has always been" will be a difficult road that will take a great deal of time, effort and energy from all of us as citizens. However while the road may be difficult the solution is within reach and one that we achieve. With the help and support of this government to lay the foundation for policies concerning bullying in all forms to deter these actions and with active cooperation between our systems of education to create effective policies and educational programs we can help change the mentality of future students to look at others not based on a fault, disability or defect but on what they can achieve and what they offer to our lives.

In closing Mr. Chairman, members of the committee I want to leave you with one final thought. That if anything else from my testimony today I hope will stay with you when you consider such legislation. On November 4<sup>th</sup> 2010 16 year old Cassidy Anandel of Cooperstown North Dakota after being bullied by others for whatever senseless reasons decided life wasn't worth living anymore and took her own life. On November 8<sup>th</sup> hundreds gathered at Trinity Lutheran Church in order to pay their final respects to Cassidy. When any person is taken before their time we do not lose a single person but lose an entire world. For the people of Cooperstown they have lost a child, sibling, classmate, teammate, community member, student, and a person to share life with, and for us as a state we lost a world of opportunity and potential of what this girl could have done with her life and the positive impact she could have made on our lives and to North Dakota. While we cannot change what has happened in the past we can change what will happen in the future and the passage of such legislation by this governing body and with the work of the good people of this state, never again will a community like Cooperstown have to

#2 SB 2167



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face the pain of losing someone, never again will we have to be reactive to actions that in hindsight we should have done something about long ago, never again will we regret not taking action to solve a problem, never again will a student of our state have to feel that life in all its wonder isn't worth live. That never again will we lose another world.

#2. SB 2167

January 19, 2011

Dear Chairman and Members of the Senate Education Committee,

My name is Brenda Lackman. I am a parent from District 34.

I'm here today in favor of this bill and to promote awareness of the bullying that's going on in our Elementary Schools. To start with, I think elementary age bullying is one of the best kept secrets: you don't read about it in the newspaper, you don't hear about it on the evening news, it doesn't really come up in casual conversation. But it is happening. We have a daughter that is 8-years-old. She has gone to the same school for 4 years. K-3<sup>rd</sup> grade. 3 out of 4 years she has experienced being slapped across the face as well as verbal insults, as have several of her classmates. Since kindergarten, approximately 2/3 of these girls in her class have experience one or more of the following: slapped, kicked, punched in the stomach, punched in the face, slapped across the face, kicked in the stomach, pushed and shoved as well as verbal insults.

I believe that had a bill like this been in place our experience would have been very different. It would have been beneficial in both preventing incidents that happened, would have provided education for learning better social skills for the aggressors, better coping skills for the victims and saved the parents a lot of frustration by having a clearly defined procedure in dealing with it.

I support this bill in its entirety and in its detail. I trust that it will apply in all its detail to elementary level students as well. I think it is vital to address this issue in elementary school when it can be curbed and re-directed more easily than later years when patterns are set and adult input is not as influential. To the children struggling with having appropriate behavior, it is a disservice not to address it and allow them to continue down that road without intervention.

I especially support the following sections:

Section 1: No name calling day.

More public awareness would help this issue from being minimized as I find it is by many adults. This would give parents and others an opportunity for it to be discussed and to bring attention to the several schools, the ways, and the degrees of bullying present right now in our communities.

Section 13, 18: Bullying Prevention – Plan-Content

10. A procedure for notifying the parents of a victim and the parent of a perpetrator. The details in this section I feel are essential requirements. In the 3 years we have dealt with this, we were never called when an incident happened and on some occasions neither set of parents were called. This year I had to insist upon being phoned should another incident happen.

#3 SB 2167

Sections 6, 7, 8, 12, 13: Developing a model and plan.

I believe the more specific the help and direction can be for the districts in writing their plans, the more effective and successful this will be. In our experience, I found the most effective intervention came when we went directly to the classroom teachers (which we were fortunate to have excellent teachers). However, a detailed procedure and protocol administratively would have eliminated parents having to seek out solutions on their own as each parent encountered these incidents in their child's educational experience.

Thank you for your time and every thought and effort you put into implementing a solution to this issue.

Sincerely,



Brenda K. Lackman  
208 5<sup>th</sup> Ave NE  
Mandan, ND 58554  
(701) 258-3960  
brendalackman@yahoo.com

#3 SB 2167

## **Senate Bill 2167**

### **Senate Education Committee**

January 19, 2011

Testimony of Jim Jacobson  
ND Protection and Advocacy Project

Chairman Freborg and members of the Senate Education Committee, I am Jim Jacobson, Director of Program Services for the ND Protection and Advocacy Project (P&A). P&A is Federal and State funded disability rights protection agency. I am here today to testify in support of Senate Bill 2167.

I would like to quote the Secretary of Education, Arne Duncan in his opening remarks at the first National Bullying Summit on August 11, 2010; "The fact is that no school can be a great school until it is a safe school first. A positive school climate is foundational to start academic achievement." North Dakota State Law mandates school attendance. There should be equally powerful mandates to ensure student safety.

Several states have passed laws to respond to and prevent bullying. For example, Florida law specifically defines prohibited conduct, and Kansas law clearly covers "cyberbullying." Washington state regulations require school officials and employees to tell certain personnel about any bullying they are aware of, and Georgia prohibits retaliation against those who report incidents. And in Massachusetts, the state policy includes a provision to provide training to an extensive list of staff members to help them prevent, identify and respond to bullying. Senate Bill 2167 incorporates the issues addressed in all examples of model state law.

Studies show that between 15 to 25 percent of U.S. students are bullied with some frequency ("sometimes or more often") while

#4 SB2167

15 to 20 percent report that they bully others with some frequency (Melton et al., 1998; Nansel et al., 2001). Rates of bullying are higher among younger students; almost 43 percent of 6<sup>th</sup> graders report having been bullied, compared to about 24 percent of 12<sup>th</sup> graders (U.S. Department of Justice, 2007).

Research indicates that children with disabilities or special needs are at a higher risk of being bullied than other children (Rigby, 2002). Parents of many of the students with disabilities that P&A has provided advocacy for have identified bullying of their son or daughter as a concern in sending them to school. There is also a potential legal liability for the School District, with regard to children eligible for disability related services under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. Under both Federal Acts the School District is obligated to provide a Free Appropriate Public Education (FAPE). Case law has established that a failure by a School District to effectively address harassment or bullying has deprived the student of FAPE and parents have received tuition reimbursement after placing their child in alternative "safe" environments.

Although Senate Bill 2167 appears to be prescriptive there are many resources to address all areas identified. There is no need for ND School Districts to re-invent the wheel and prevention is always good practice. Therefore P&A strongly supports Senate Bill 2167. P&A would propose one amendment to Section 20 on page 12 regarding the membership of the ND Commission on Bullying. This amendment would add a parent of a child with a disability. The proposed amendment is attached to my testimony.

Thank you for the opportunity to testify in support of SB 2167 and I would be happy to answer any question.

#4 SB 2167

PROPOSED AMENDMENTS TO SENATE BILL 2167

3

Page 12, line 29, after "governor.", insert;

- k. One individual having a child with a disability enrolled in a public school in this state, appointed by the governor.

#4 SB 2167

# Resources

## ABCs of Bullying

This online training course from the Substance Abuse and Mental Health Services Administration (SAMHSA) for professionals in education, health and mental health, and related fields examines the causes and effects of bullying, prevention techniques and programs, screening, treatment options, and legal/ethical issues surrounding bullying.

## **Bullying Solutions (forthcoming)**

This resource from SAMHSA offers principals free information and ready-to-use tools to develop and implement their own quality, research-based initiatives. Site features include materials such as PowerPoint presentations, brochures, posters, letters, and articles; online surveys for principals and students; a step-by-step program calendar; a bullying reporting template and discipline guide; and curriculum enhancements.

## National Center for Bullying Prevention

The Department of Labor's National Collaborative on Workforce and Disability for Youth partnered with the PACER Center to develop this initiative on Teen Bullying.

## The Scope and Impact of Bullying

This fact sheet from Stop Bullying Now! provides an overview of the bullying problem, reviews the effects of bullying, discusses children who bully and research on bullying, and looks at what works in bullying prevention.

## Striving to Reduce Youth Violence Everywhere (STRYVE)

STRYVE is a national initiative, led by the Centers for Disease Control and Prevention, which takes a public health approach to preventing youth violence before it starts. To support this effort, the STRYVE website provides communities with the knowledge and resources to be successful in preventing youth violence. Resources include up-to-date bullying facts and statistics and bullying prevention guidance.

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**Testimony**  
**Senate Bill 2167**  
**Senate Education Committee**  
**Senator Layton Freborg, Chairman**  
**January 18, 2011**

Chairman Freborg and members of the Committee: my name is Carlotta McCleary. I am the Executive Director of ND Federation of Families for Children's Mental Health (NDFFCMH). NDFFCMH is a parent run advocacy organization that focuses on the needs of children and youth with emotional, behavioral and mental disorders and their families, from birth through transition to adulthood.

According to the Substance Abuse and Mental Health Services Administration (SAMHSA), the effects of bullying extend beyond the school years. Bullying may lead to criminal behavior for those who bully and future health and mental health problems for both the bully and the victims:

- Six out of 10 kids identified as bullies in middle school are convicted of a crime by the time they reach age 24.
- Years after experiencing bullying, adults who were bullied as teens have higher levels of depression and poorer self-esteem than other adults.
- Children exposed to violence either at home or at school often suffer long-term problems such as anxiety, depression, post-traumatic stress, low self-esteem, anger, and self-destructive behaviors.

Yet, despite its prevalence, bullying often is overlooked or downplayed as a problem among parents and educators. Most bullying takes place out of the view of adults. But even when bullying occurs within plain sight it is frequently ignored:

- As many as one-fourth of elementary and middle school teachers don't understand the seriousness of bullying or putdowns and, therefore, intervene in only 4 percent of bullying incidents.
- More than two-thirds of middle school students believe that schools respond poorly to bullying.

#5 SB2167



Most school bullying doesn't lead to headline-grabbing incidents of students brandishing guns in mass attacks against their perceived enemies. The consequences of bullying are often less obvious, yet nonetheless damaging and lasting. Left unchecked, bullying creates an atmosphere of intimidation and fear that can send a message to students that aggressive and violent behavior is accepted.

Children with disabilities and special needs are at higher risk being bullied by peers. Some research has been done and found out that there is a growing number of bullying cases.

The NDFFCMH is seeing more children dealing with bullying issues. In one situation a middle school girl with mental health needs was being bullied by who she thought was her friend. Her friend claimed that she had stolen items from her school locker. The friend then posted the false accusation on facebook. Not only were kids leaving negative messages on facebook they were shunning her at school. This girl was so distraught she had difficulty focusing on her schoolwork and would leave the classroom in tears. She became very depressed. When the family brought their concerns to the school the school did not want to get involved because it was dealing with the internet. Like many families the parents and child were left to deal with it on their own.

The NDFFCMH supports SB 2167. We feel that this bill has been well thought out. We especially like the efforts toward educating the community about the impact of bullying, the information that is provided to parents, and the education of children with disabilities on how to cope with bullying.

Thank you for your time.

Carlotta McCleary, Executive Director  
ND Federation of Families for Children's Mental Health  
PO Box 3061  
Bismarck, ND 58502

#5 SB 2167

**SB 2167 TESTIMONY  
SENATE EDUCATION COMMITTEE**

**January 19, 2011**

**Valerie Fischer, Director of School Health & Director of Adult Education**

**328.4138**

**Department of Public Instruction**

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Chairman Freborg and members of the Senate Education Committee: I am Valerie Fischer, Director of School Health and Director of Adult Education for the Department of Public Instruction. On behalf of DPI, I am here to support SB 2167.

According to the **2009 Youth Risk Behavior Survey** ...

	Grades 7-8	Grades 9-12	TOTAL
Students who have been bullied on school property by another student.	50%	22%	72%
Students who have been bullied away from school property during the past 12 months.	27%	18%	45%
Students who have been electronically bullied (e-mail, chat rooms, instant messaging, Web sites or text messaging) during the past 12 months.	19%	14%	33%

The recent media attention across the country and across North Dakota has brought light to a social issue needing immediate attention. Bullying needs to end; we have no place for such behavior in our schools, homes or communities. We must become intolerant of bullies and provide the structure for schools to take an aggressive stance against this negative conduct. By doing so, we can also stop the pain of literally thousands of ND students who don't want to go to school, who feel worthless and humiliated at the expense of others. Additional outcomes will impact those who choose to drop out of school and those who turn to risk behaviors to escape their pain. This bill, or any law, will not stop bullying entirely; but a well written and well implemented law will put into place a comprehensive system which includes policy, practice, programs/curriculum, sanctions, interventions, and professional development – for administration, staff, students, parents and the community – specific to the needs of elementary, middle and high school students.

#6 SB 2167

There are currently four (4) bullying bills this legislative session; all have similar components and yet, are different. Attorney General Stenehjem convened a work group of stakeholders which included DPI, Council of Educational Leaders, School Boards Association, NDEA, ND Council on Abused Women, and the Governor's Office. By consensus, we all contributed to the bill language and intent (HB 1465).

Legislative Council has asked for a fiscal note on three of the four bills; the Department is willing to accept the role and responsibilities identified in the bills. One FTE is warranted to perform and coordinate the bill responsibilities. This is a valuable service to the schools and students across the state and is a reasonable conservative fiscal note.

Thank you for your time – that concludes my testimony and I'm available to answer any questions you may have.

#6 SB 2167

## **BULLYING**

### ***What is bullying?***

Bullying is repeated exposure over time to deliberate, negative actions on the part of one person or more than one person that is unprovoked, resulting in a physical and/or psychological power imbalance.

### ***When and where does bullying occur?***

In school, bullying generally occurs in 'hot spots' where adult supervision is minimal – playground, bathrooms, hallways, bus, and locker rooms. Bullying also occurs via electronic means – internet, cell phone, texting, are all means via which to bully,

### ***Who is most likely to be bullied?***

There is no typical stereotype for the bully, but generally the student who is small, weak, different, or academically challenged becomes the victim of bullying.

### ***Why does someone bully?***

Bullying is a learned behavior; usually learned at home through observation from parent, sibling, or friend. The bully generally continues to bully because, simply, it works, he/she got away with it, they got the attention they were seeking at the expense of someone else and assume, falsely so, that they are in control.

### ***How do bullies bully?***

Bullies bully in the following ways – physical, emotional, sexual, verbal, cyber-bullying and even exclusion.

### ***Who bullies more - boys or girls?***

Historically, boys used to be bullies, but now it's an equal opportunity – both tend to bully via physical means; cyber-bullying and exclusion are generally done more often by girls.

### ***What about the role of the bystander?***

The role of the bystander is a critical role – the bystander actually has more power than the bully. The bystander/s has the power to end the behavior and if done so as a 'pact', has control over the bully who typically can't physically or emotionally continue without the support of the bystanders.

# CAPITOL FACTS & FIGURES

## ● ● ○ EDUCATION

### Cyberbullying and State Law

The Cyberbullying Research Center defines cyberbullying as “willful and repeated harm inflicted through the use of computers, cell phones and other electronic devices.”<sup>1</sup>

- A study in 2010 showed approximately 20 percent of 11- to 18-year-old students were victimized and 10 percent reported they had been both an offender and a victim of cyberbullying.<sup>1</sup>
- Outcomes of cyberbullying often include the victim feeling depressed, afraid or embarrassed to go to school, low self-esteem, academic problems, suicidal thoughts and, in extreme cases, suicide.<sup>1</sup>
- Cyberbullying differs from traditional bullying because sometimes the victim is unaware who the bully is or why he is being bullied. Also, the actions can be viewed by a much greater population than traditional bullying.<sup>1</sup>




**Cyberbullying and lack of a positive school climate, in which students feel secure and valued, are connected.**

- Students who experienced cyberbullying perceived poorer school climates than those who had not experienced cyberbullying.<sup>1</sup>
- A positive school climate contributes to improved attendance, higher student achievement and other desirable student outcomes.<sup>1</sup>
- Although cyberbullying victims and their offenders often know one another from school, infractions often occur off school grounds and not during school hours, making it difficult for schools to deal with the issue.
- The Federal Communications Commission announced in October 2010 it will issue an order that schools receiving subsidies for Internet service must teach students about the perils of cyberbullying and the responsible use of social networking sites. The FCC said the order would put its regulations in line with the Protecting Children in the 21st Century Act, which subsidizes school Internet access.<sup>2</sup>

- Compile and make available to all schools a list of programs to prevent harassment, intimidation, bullying or cyberbullying of students;
- Establish and maintain a central repository for the collection and analysis of information regarding harassment, intimidation, bullying or cyberbullying; and
- Report to the state legislature annually on the current levels and nature of harassment, intimidation and bullying in schools and the effectiveness of school policies in combating harassment, intimidation, bullying or cyberbullying, including recommendations for other appropriate actions.<sup>3</sup>

**As of August 2010, 44 states had statutes regarding bullying; 30 states addressed some form of electronic harassment.<sup>4</sup>**

 Tim Weldon, CSG Education Policy Analyst  
tweldon@csq.org

**State boards of education and legislatures can play a role by adopting and implementing cyberbullying prevention policies. The Anti-Defamation League created recommended legislation that calls for states to:**

- Develop a model policy and training materials on the components for any district policy;
- Periodically review school district programs, activities and services to determine whether the school boards are complying with this statute;

#### REFERENCES

- <sup>1</sup>Hinduja, Sameer and Justin W. Patchin. “Cyberbullying identification, Prevention, and Response.” Cyberbullying Research Center. (2010) Accessed at [http://www.cyberbullying.us/Cyberbullying\\_Identification\\_Prevention\\_Response\\_Fact\\_Sheet.pdf](http://www.cyberbullying.us/Cyberbullying_Identification_Prevention_Response_Fact_Sheet.pdf) on November 3, 2010.
- <sup>2</sup>E-school News. “FCC Taking on Cyberbullying in Schools.” (October 29, 2010) Accessed at <http://www.eschoolnews.com/2010/10/29/fcc-taking-on-cyberbullying-in-schools/> on November 4, 2010.
- <sup>3</sup>Anti-Defamation League. “Cyberbullying Prevention Law — An ADL Model Statute.” (May 2009) Accessed at [http://www.adl.org/main\\_internet/cyberbullying\\_prevention\\_law.htm?Multi\\_page\\_sections=shheading\\_9](http://www.adl.org/main_internet/cyberbullying_prevention_law.htm?Multi_page_sections=shheading_9) on November 4, 2010.
- <sup>4</sup>Cyberbullying Research Center. “The Current State of Cyberbullying Laws.” Accessed at <http://cyberbullying.us/blog/the-current-state-of-cyberbullying-laws.html> on November 4, 2010.

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# States With Cyberbullying Laws

States	Bullying Law	Update or Law Proposed	Includes "Cyberbullying"	Includes "Electronic Harrassment"	Criminal Sanction	School Sanction	Requires School Policy
Alaska	YES	NO	NO	YES	NO	NO	YES
Alabama	YES	YES	NO	NO	NO	YES	YES
Arkansas	YES	NO	NO	NO	NO	NO	YES
Arizona	YES	NO	YES	YES	NO	YES	YES
California	YES	NO	NO	YES	NO	YES	YES
Colorado	NO	NO	NO	NO	proposed	YES	YES
Connecticut	YES	NO	NO	NO	NO	YES	YES
Delaware	YES	NO	NO	NO	NO	YES	YES
District of Columbia	YES	NO	NO	NO	NO	NO	YES
Florida	YES	NO	NO	YES	NO	YES	YES
Georgia	YES	NO	NO	YES	NO	YES	YES
Hawaii	NO	proposed	NO	NO	proposed	NO	NO
Iowa	YES	NO	NO	YES	YES	YES	YES
Idaho	YES	NO	NO	YES	NO	YES	YES
Illinois	NO	proposed	NO	proposed	NO	NO	YES
Indiana	YES	NO	NO	YES	NO	YES	YES
Kansas	YES	NO	YES	YES	NO	YES	YES
Kentucky	YES	NO	NO	YES	YES	YES	YES
Louisiana	YES	YES	NO	NO	NO	YES	YES
Massachusetts	YES	YES	NO	NO	NO	YES	YES
Maryland	YES	NO	NO	YES	NO	YES	NO
Maine	YES	NO	YES	NO	NO	YES	YES
Michigan	proposed	proposed	proposed	proposed	proposed	proposed	proposed
Minnesota	YES	YES	NO	YES	NO	YES	YES
Missouri	YES	NO	NO	YES	NO	YES	YES
Mississippi	YES	NO	NO	YES	YES	YES	YES
Montana	NO	NO	NO	NO	NO	NO	NO
Nebraska	YES	NO	NO	YES	NO	YES	YES
Nevada	YES	NO	YES	YES	YES	NO	YES
New Hampshire	YES	YES	YES	YES	NO	NO	YES
New Jersey	YES	NO	NO	YES	NO	YES	YES
New Mexico	YES	NO	NO	YES	NO	YES	YES
New York	YES	YES	NO	NO	NO	YES	YES
North Carolina	YES	YES	NO	NO	YES	YES	YES
North Dakota	NO	NO	NO	proposed	proposed	NO	NO
Ohio	YES	YES	NO	NO	NO	YES	YES
Oklahoma	YES	NO	NO	YES	NO	NO	YES
Oregon	YES	NO	YES	YES	NO	YES	YES
Pennsylvania	YES	NO	NO	YES	NO	YES	YES
Rhode Island	YES	NO	NO	YES	NO	NO	YES
South Carolina	YES	NO	NO	YES	NO	YES	YES
South Dakota	NO	NO	NO	NO	NO	NO	NO
Tennessee	YES	NO	NO	YES	YES	YES	YES
Texas	YES	YES	NO	NO	NO	YES	NO
Utah	YES	NO	NO	YES	NO	YES	YES
Vermont	YES	NO	NO	NO	NO	YES	YES
Virginia	YES	NO	NO	YES	NO	YES	YES
Washington	YES	NO	NO	YES	NO	YES	YES
Wisconsin	YES	NO	NO	NO	NO	YES	YES
West Virginia	YES	NO	NO	NO	YES	YES	YES
Wyoming	YES	NO	NO	YES	NO	YES	YES
Federal	NO	proposed	proposed	proposed	proposed	NO	NO

Source: Hinduja, Sameer and Justin W. Patchin. Cyberbullying Research Center. (July 2610) Accessed at: [http://www.cyberbullying.us/Bullying\\_and\\_Cyberbullying\\_Laws\\_20100701.pdf](http://www.cyberbullying.us/Bullying_and_Cyberbullying_Laws_20100701.pdf)

#6 SB 2167

**North Dakota Department of Public Instruction  
School Health  
Safe and Drug Free Schools  
Suspension/Expulsion Report 2009-2010**

**Quick Stats  
North Dakota School Violence and Drug Statistics**

**1807** – Total number of violent and drug-related incidents in North Dakota schools that resulted in suspension or expulsion:

	<u>Removal days</u>
• 800 reported fighting/mutual altercation incidents	2361.9
• <b>310</b> reported tobacco incidents	687.5
• 119 reported simple assault incidents	287.5
• <b>177</b> reported drug incidents	1459.0
• <b>82</b> reported alcohol incidents	280.0
• 89 reported terrorizing incidents	314.5
• <b>38</b> reported knife (blade 2.5" or greater) incidents	639.0
• 53 reported assault incidents	234.0
• <b>19</b> reported other object incidents	170.2
• 29 reported reckless endangerment incidents	37.0
• <b>30</b> reported hazing incidents	64.2
• <b>31</b> reported robbery incidents	68.5
• 11 reported other offenses resulting in 10 days out of school suspension or expulsion	190.0
• 0 reported handgun incidents	0
• 1 reported serious bodily injury incidents	10.0
• 12 reported sexual imposition incidents	22.0
• 1 reported rifle/shotgun incidents	1.0
• <b>3</b> reported other firearm incident	37.5
• 1 reported aggravated assault incident	3.0
• 1 reported murder, manslaughter, negligent homicide, kidnapping, felonious restraint, inciting a riot, or gross sexual imposition/rape incidents	2.0
	<u>total days: 6868.8</u>
• 149 reported vandalism/criminal mischief	514.75 removal days

**Bold** indicates increase from previous year

Total Public/Nonpublic K-12 enrollment 2009-2010: 101,319

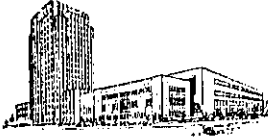
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**Truancy Incidents reported in 2009-2010:**

- 7810 days ND students were truant
- 1922 students truant
- State truancy rate: 4.06 days

#6 SB 2167

# TESTIMONY ATTACHMENT 1



Senator Richard Marcellais  
District 9  
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Belcourt, ND 58316-9787  
rmarcellais@nd.gov

NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



COMMITTEES:  
Education  
Government and Veterans Affairs

*Testimony  
Senator Richard Marcellais  
House Education Committee  
Senate Bill 2167*

*Chairwoman Kelsch, members of the House Education committee for the record my name is Senator Richard Marcellais, District 9, Rolette County, Belcourt.*

*I appear before you today in support Senate Bill 2167 which relates to bullying.*

*Section 1 of the bill defines bullying as conduct that occurs in a public school, or school district premises, in a district owned or leased school bus or school vehicle, at a school bus stop, or at any public school or school district sanctioned or sponsored activity or event.*

*Section 2 requires that each school district by July 1, 2012 to develop and adopt a bullying policy.*

*Section 3 requires the Superintendent of Public Instruction to develop a model anti-bullying policy by January 1, 2012.*

*Section 4 includes professional development on bullying prevention and intervention with school staff.*

*Section 5 identifies the bullying prevention programs to all students from kindergarten through grade twelve, and reporting to the Superintendent of Public Instruction.*



*Section 6 identifies the Causes of action – Immunity.*

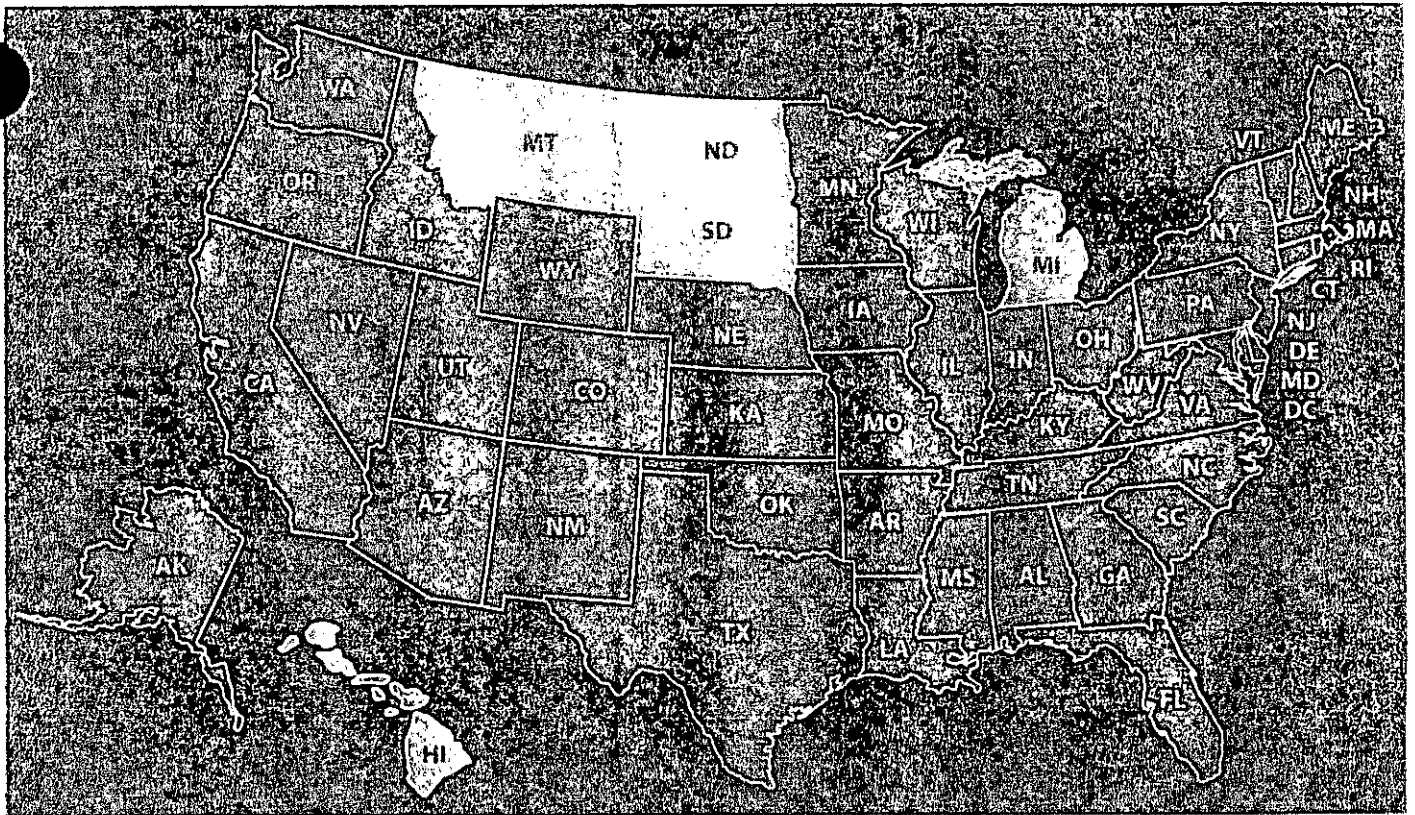
*Section 7 requires each school district shall develop and implement a policy setting forth internet safety measures designed to protect students.*

*“Bulling is going on all across the United States and North Dakota is one of six (6) states that doesn’t have a present law to outlaw bullying”*

*Stop Bullying Now Take a Stand & Lend a Hand.*

*Thank You very much for this opportunity, to appear in support of Senate Bill 2167. If there are any questions I will try and answer them.*

# State Laws on Bullying



 States with laws on Bullying

 States with no laws on Bullying

Updated October 2010

To find a specific state law on bullying, go to the Web site for the state legislature and insert bullying as a search term.

## States with laws on Bullying:

Alabama	Nebraska
Alaska	Nevada
Arizona	New Hampshire
Arkansas	New Jersey
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	Ohio
Florida	Oklahoma
Georgia	Oregon
Idaho	Pennsylvania
Illinois	Rhode Island
Indiana	South Carolina
Iowa	Tennessee
Kansas	Texas
Kentucky	Utah
Louisiana	Vermont
Maine	Virginia
Maryland	Washington State
Massachusetts	West Virginia
Minnesota	Wisconsin
Mississippi	Wyoming
Missouri	

## States with no laws on Bullying:

District of Columbia  
 Hawaii  
 Michigan  
 Montana  
 North Dakota  
 South Dakota



# TESTIMONY ATTACHMENT 2

## Senate Bill 2167

### House Education Committee

March 14, 2011

Testimony of Jim Jacobson  
ND Protection and Advocacy Project

Chair Kelsch and members of the House Education Committee, I am Jim Jacobson, Director of Program Services for the ND Protection and Advocacy Project (P&A). P&A is Federal and State funded disability rights protection agency. I am here today to testify in support of Senate Bill 2167.

North Dakota State Law mandates school attendance. ND State Law, as found at Chapter 50-25.1 (Child Abuse and Neglect) also establishes that a "...public or private school..." is responsible for "...the child's welfare..." Senate Bill 2167 will establish, and support through State Law, policies and procedures that compliment that mandate.

Studies show that between 15 to 25 percent of U.S. students are bullied with some frequency ("sometimes or more often") while 15 to 20 percent report that they bully others with some frequency (Melton et al., 1998; Nansel et al., 2001). Rates of bullying are higher among younger students; almost 43 percent of 6<sup>th</sup> graders report having been bullied, compared to about 24 percent of 12<sup>th</sup> graders (U.S. Department of Justice, 2007).

Research indicates that children with disabilities or special needs are at a higher risk of being bullied than other children (Rigby, 2002). I have attached information from the North Dakota Disability Health Project reflecting data from a North Dakota middle and high school student survey.

P&A provides advocacy to students with disabilities. Over the 20 years that I have been a supervisor I have reviewed many cases where the complex issues of providing an effective individualized education plan for a student with disabilities has been further complicated by the student suffering the consequences of bullying. Many parents of students with disabilities have identified bullying of their son or daughter as a concern in sending them to school. There is also a potential legal liability for the School District, with regard to children eligible for disability related services under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. Under both Federal Acts the School District is obligated to provide a Free Appropriate Public Education (FAPE). Case law has established that a failure by a School District to effectively address harassment or bullying has deprived the student of FAPE and parents have received tuition reimbursement after placing their child in alternative "safe" environments.

P&A believes that the passage of Senate Bill 2167 will help ensure that the issue of bullying is recognized and addressed. The quality of any program will still be the responsibility of each school district and involved stakeholders and can be tailored to most effectively respond to the issues that are prevalent in each school.

Thank you for the opportunity to testify in support of SB 2167 and I would be happy to answer any question.

# ON THE ROAD TO WELLNESS

North Dakota Disability Health Project

Promoting the health and wellness of people with disabilities

February 2011

Issue 26

## Bullying and Suicide Among Youth with Disabilities

Staff of the North Dakota Disability Health project analyzed 2009 Youth Risk Behavior Survey (YRBS) data for ND middle school and high school students to explore whether disability-related disparities exist regarding bullying and suicidal thoughts/intention. YRBS defines disability as a physical or learning disability, or a long-term health or emotional problem.

### Bullying

Middle and high school students with a disability reported a higher prevalence of having been bullied, compared to students without a disability. Being bullied is linked to psychological distress, depression and thoughts of suicide.

Among *middle* school students, those with a disability had a higher prevalence of ever being bullied at school (60% vs. 48%), being bullied off school property in the past year (37% vs. 25%) and being electronically bullied in the past year (26% vs. 18%), see Figure 1. Among *high* school students, persons with a disability had a higher prevalence of being bullied at school in the past year (34% vs. 19%) and being electronically bullied in the past year (29% vs. 12%), see Figure 2.

Figure 1. Bullying by Disability Status, North Dakota *Middle School* Students

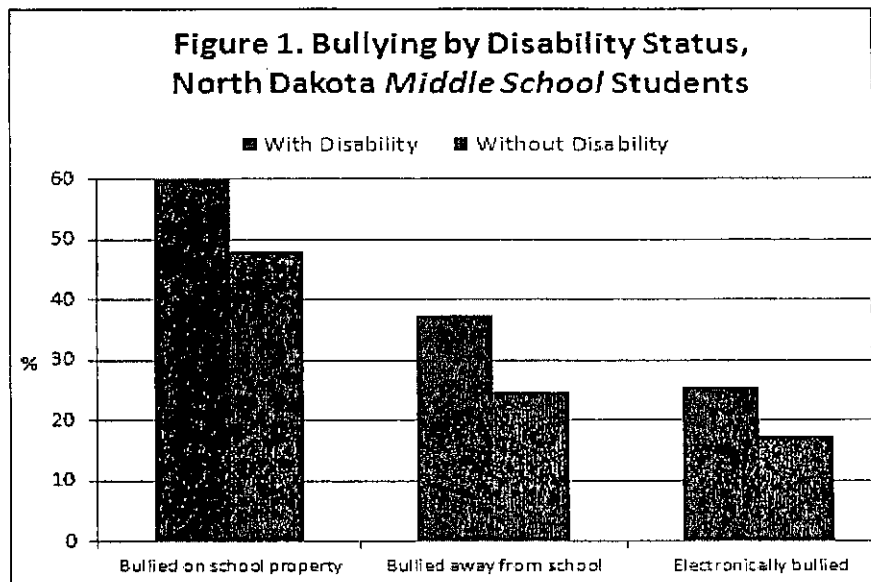
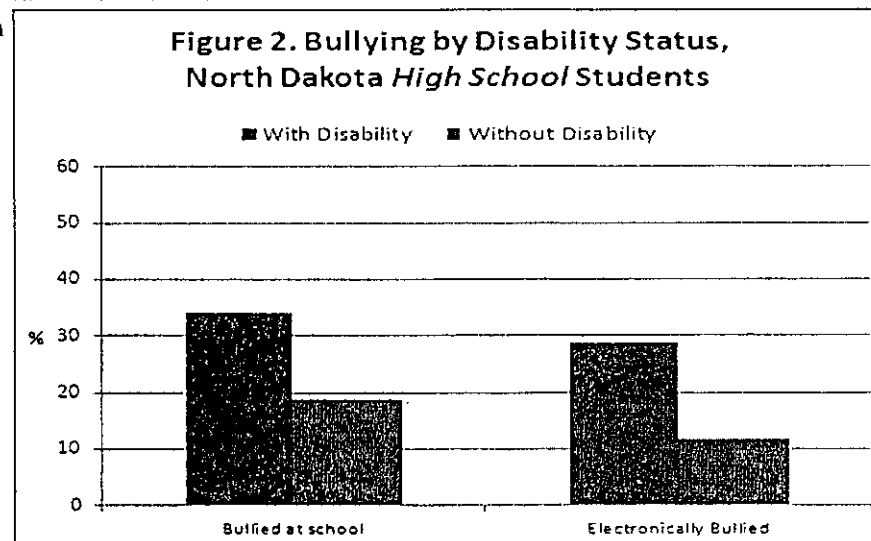
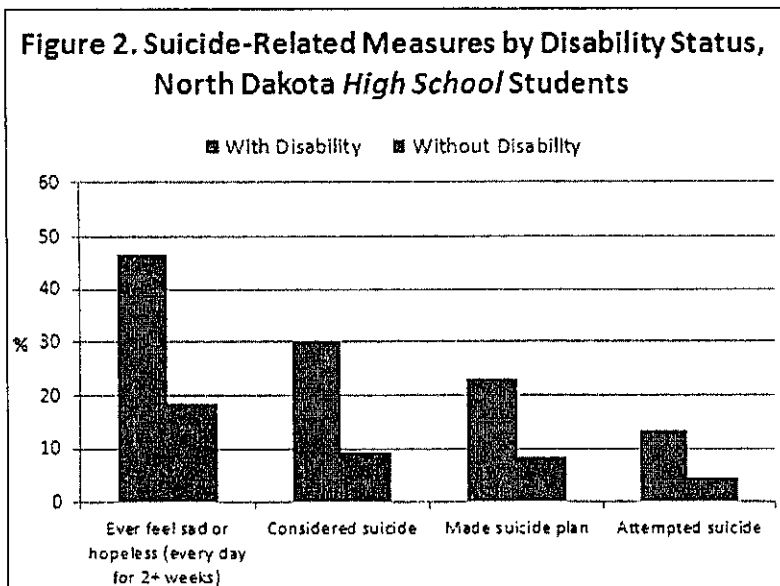
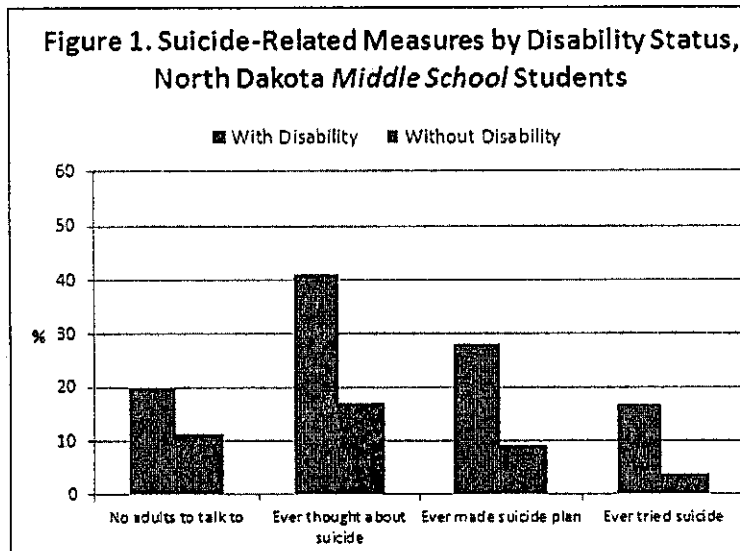


Figure 2. Bullying by Disability Status, North Dakota *High School* Students



## Suicide

North Dakota *middle* school students were asked if they had ever seriously thought about killing themselves. Among students with a disability, 40.9%, indicated a yes response to this question, compared to 16.9% of students without a disability (Figure 1). Middle school students with a disability also had a higher prevalence of ever making a suicide plan and ever attempting suicide (Figure 1). Among *high* school students, those with a disability were more likely than those without a disability to have considered or attempted suicide (Figure 2). Students with disabilities were more apt to indicate they had no adults to talk to and had feelings of sadness or hopelessness.



**Sources:**

- *Disability-Related Health Disparities Among North Dakota Adults and Adolescents, 2010:*  
<http://www.ndcpd.org/health/NDDHP/Disability>



North Dakota Center for  
 Persons with Disabilities  
 Minot State University  
 500 University Ave. W.  
 Minot, ND 58707  
 1.800.233.1737  
 701.858.3580  
[www.ndcpd.org/health](http://www.ndcpd.org/health)

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**Vision:**

All people in ND have access to information and services they need to maintain good health and wellness. There are no health disparities between people with and without disabilities that are based solely on the presence of a disability.

**Pay It Forward.....**

Pass this information on to others who may find it helpful.

Health-related information provided in this fact sheet is for informational purposes only and should not replace advice from a medical professional. The ND Disability Health Project is funded by the Centers for Disease Control and Prevention (CDC) through a grant (1 u59 DD000278) to the North Dakota Center for Persons with Disabilities at Minot State University. Opinions expressed here do not necessarily reflect the official policy of the CDC.



## **Resources**


### **ABCs of Bullying**

This online training course from the Substance Abuse and Mental Health Services Administration (SAMHSA) for professionals in education, health and mental health, and related fields examines the causes and effects of bullying, prevention techniques and programs, screening, treatment options, and legal/ethical issues surrounding bullying.

### **Bullying Solutions (forthcoming)**

This resource from SAMHSA offers principals free information and ready-to-use tools to develop and implement their own quality, research-based initiatives. Site features include materials such as PowerPoint presentations, brochures, posters, letters, and articles; online surveys for principals and students; a step-by-step program calendar; a bullying reporting template and discipline guide; and curriculum enhancements.

### **National Center for Bullying Prevention**




The Department of Labor's National Collaborative on Workforce and Disability for Youth partnered with the PACER Center to develop this initiative on Teen Bullying.

### **The Scope and Impact of Bullying**

This fact sheet from Stop Bullying Now! provides an overview of the bullying problem, reviews the effects of bullying, discusses children who bully and research on bullying, and looks at what works in bullying prevention.

### **Striving to Reduce Youth Violence Everywhere (STRYVE)**

STRYVE is a national initiative, led by the Centers for Disease Control and Prevention, which takes a public health approach to preventing youth violence before it starts. To support this effort, the STRYVE website provides communities with the knowledge and resources to be successful in preventing youth violence. Resources include up-to-date bullying facts and statistics and bullying prevention guidance.



# TESTIMONY ATTACHMENT 3

**Robert Vallie**

**Executive Commissioner: Governmental Relations and Inter-Collegiate Affairs**

**North Dakota State University Student Government**

**Testimony to the House Education Committee concerning Senate Bill 2167**

**March 14, 2011**

Chairman Kelsch and members of the House Education Committee:

When a person is taken from this world well before they should we do not just lose a single person, we lose a world. We lose a world of possibility, of what could be of what could have been. We lose a world of uncharted potential and unknown wonders. But we also quite literally lose a world in a real sense. With the death of a person we lose a child, a parent, grandparent, sibling, friend, classmate, community member, a good person to share life with.

Since the end of the 1990's society has seen the real effects of a national epidemic that effects every community, every day, and one that has gone on for as long as any of us can remember: The epidemic known commonly as bullying. Bullying everyday effects millions of students who are tormented by their peers and others in a wide variety of ways for a wide variety of reasons. It can be for something readily noticeable such as a physical or mental disability, or as hidden as a person's sexual preference. No matter the reason a person may be bullied or the method that may be used against a person the effects to that individual who is tormented can be serious. Whether that person was attacked in the traditional forms of bullying such as physical or verbal bullying or using the internet or other electronic means to cyberbully creates the same risk for depression and other mental health concerns. But unfortunately bullying a person does not mean you will always get the same result nor is it limited to a small parameter of effects on an individual or even limited to a certain state or states. The examples of the Columbine High School Massacre in 1999 in Colorado, the suicide in 2006 of a 13 year old Missourian Megan Meier who was bullied through the use of the social networking site MySpace, the suicide in September of 2010 of a Rutgers student Tyler Clementi after his roommate filmed him in an intimate situation with another man and the most recent suicide on November 4<sup>th</sup> 2010 in Cooperstown, ND of 16 year old Cassidy Andel all point to the same conclusion: Bullying is a serious problem across America that effects all people, in all states and if left unchecked can cause serious harm to the individuals being bullied or others. For us as students of NDSU we remember our experiences with bullying and even to this day deal with bullying on our campus and in this moment see a wonderful opportunity to help protect the next generation of students from the pain that our student body, including me have felt. We believe that passage of such a piece of legislation helps to set definitively in plain language that bullying will no longer be tolerated and gives school districts the necessary guidelines in order to combat this problem and to give students the opportunity to succeed. This law if passed also gives a great opportunity for the entire education system of North Dakota both K-12 and Higher Education to work together to help to create the first generation of policies and programs to combat bullying in our schools and to more importantly educate students on the harms of bullying. As previously mentioned we as



students of NDSU know all too well the harm that bullying does to students and is still a problem that holds true within our institution. Even for a person like me as a 21 year old Social Science Education Major attempting to serve my fellow students that I have been more times than I care to remember bullied by others on my campus. However with recent events that has taken place on the campus of Rutgers in New Jersey and in the community of Cooperstown, we as students felt that enough was enough and created the Walk the Talk Campaign. Walk the Talk is a program conceived, funded, implemented and completed by students and this program over the course of a week helped to pledge 225 students on our campus to stop from bullying individuals with the use of hurtful words or actions and to actively stop others who they see bullying. Along with these actions a rally held at the end of the campaign was attended by over 200 individuals and received media attention from every major news affiliate in the Fargo-Moorhead area and has lead us to develop anti-bullying programming as well as helping schools within the Fargo area and even the student governments across the North Dakota University System to develop programs to combat this problem on their respective campuses.

Madam Chair and members of the committee I know what you and your fellow legislators face today in this hearing as well as the many hearings that will be done concerning anti-bullying laws will be anything but easy. To combat a epidemic such as this that has been around for as long as anyone can remember and to remove the mentality that bullying is just "The way it has always been" will be a difficult road that will take a great deal of time, effort and energy from all of us as citizens. However while the road may be difficult the solution is within reach and one that we achieve. With the help and support of this government to lay the foundation for policies concerning bullying in all forms to deter these actions and with active cooperation between our systems of education to create effective policies and educational programs we can help change the mentality of future students to look at others not based on a fault, disability or defect but on what they can achieve and what they offer to our lives.

In closing Madam Chair, members of the committee I want to leave you with one final thought. That if anything else from my testimony today I hope will stay with you when you consider such legislation. On November 4<sup>th</sup> 2010 16 year old Cassidy Andel of Cooperstown North Dakota after being bullied by others for whatever senseless reasons decided life wasn't worth living anymore and took her own life. On November 8<sup>th</sup> hundreds gathered at Trinity Lutheran Church in order to pay their final respects to Cassidy. When any person is taken before their time we do not lose a single person but lose an entire world. For the people of Cooperstown they have lost a child, sibling, classmate, teammate, community member, student, and a person to share life with, and for us as a state we lost a world of opportunity and potential of what this girl could have done with her life and the positive impact she could have made on our lives and to North Dakota. While we cannot change what has happened in the past we can change what will happen in the future and the passage of such legislation by this governing body and with the work of the good people of this state, never again will a community like Cooperstown have to face the pain of losing someone, never again will we have to be reactive to actions that in hindsight we should have done something about long ago, never again will we regret not taking action to solve a problem, never again will a student of our state have to feel that life in all its wonder isn't worth live. That never again will we lose another world.

# TESTIMONY ATTACHMENT 4



Chairman Kelsch, and members of the committee, I am William Woodworth, the current Legislative Lobbyist for the North Dakota Student Association. We are here to testify in support of SB 2167. We are proud that the Legislative Assembly of North Dakota is taking the time to find solutions to the serious problem of bullying that is affecting our younger students. SB 2167 will not fix the problem overnight, but it is a step to ensure the schools of North Dakota will be addressing this problem adequately in the future. NDSA is supporting this bill because it will benefit the future students of higher education; it will make the future better for North Dakota's K-12 students and future college students. As Dr. Jorge Srabstein, Medical Director of the Clinic for Health Problems Related to Bullying, testified before the United States House Education and Labor Committee Subcommittee on Healthy Families and Communities, "All those involved in bullying have now been shown to be at significantly increased risk for multiple problems when compared to their uninvolved peers." Dr. Srabstein further testified, "[these students] are especially at risk in attempting or completing suicide before age 25, as well as to committing repeated criminal offenses between ages 16 and twenty-five". It is not often that a committee can claim to save the lives of North Dakota students, but this committee has that opportunity before it. Today this committee can begin the process of eliminating bullying from schools, and in the process save lives. For these reasons, the North Dakota Student Association supports SB 2167.

Thank you for your time.

William Woodworth

North Dakota Student Association, Legislative Lobbyist

# TESTIMONY ATTACHMENT 5

HB 2167 Testimony  
House Education Committee  
March 14, 2011

Good morning, Chair Kelsch and members of the House Education Committee. My name is Cynthia Kile, and I am a lifelong resident of Fargo, North Dakota. I am here today in support of House Bill 2167, relating to bullying.

I would like to thank you for addressing the serious issue of bullying. Especially since North Dakota is one of only 5 states in the country that does not have anti-bullying laws in place. By passing anti-bullying legislation, you are taking an important step to help prevent instances like the recent suicide of 16-year old Cassidy Joy Andel from Cooperstown.

While I support the legislature's efforts at looking at this issue, I do have some concerns:

- The timeline – this bill requires the Superintendent of Public Instruction to develop a model policy by January 1, 2012. ***Is that enough time to gather input from all of the required participants?*** That same question applies to the requirement of the school districts to develop their own policy (with input from a variety of organizations and partners), by July 1, 2012.
- Funding – the bill has been amended so that there is no fiscal note associated with it. ***Is that realistic?*** If the Superintendent has to gather stakeholders together to provide input, one would expect that there would be costs associated with that process.

Again, I support House Bill 2167 – but I hope that the legislature does its best to make sure that the requirements of the bill can in fact be fulfilled. Now, a friend of mine from Fargo would like to speak to you about her personal experiences with bullying, and how it has affected her life. Thank you.

# TESTIMONY ATTACHMENT 6

HB 2167 Testimony  
House Education Committee  
March 14, 2011

Good morning, Chair Kelsch and members of the House Education Committee. My name is Rhonda Cottrell, and I am a resident of Fargo, North Dakota. I am here today in support of House Bill 2167, relating to bullying. I would like to share my personal story of being a victim of bullying.

I was in a Special Resources class from Kindergarten through 12<sup>th</sup> grade, due to disabilities. I was called names, picked on, and even pushed. I became afraid to go to school and it was hard to tell teachers. From 6<sup>th</sup> grade on up, kids became meaner, and I started to rebel – and, my self confidence lessened.

I graduated from high school and became an advocate for people with disabilities, to not only help them deal with or avoid bullying, but to boost my self confidence.

Again, I support House Bill 2167 – thank you for your time.

# ATTACHMENT 7

*For when we are tried by life's circumstances and we endure, we begin to grow a quality of character that is beyond price. It is something that can be gotten in no other way. Then our pain, disappointment, fear, and suffering take on meaning. We become grateful for our trials. Our paradigm shifts from "poor me" to "fortunate me." We were given the rare opportunity to become better people.*

Americans have never been guaranteed happiness only the pursuit of it.  
There is no guaranty of equal results only of a level field upon which the game can be played

Proposed amendments:

- Section 1: Definition Define bullying as the attempt to or the process in which an individual or individuals take the dignity of another: taking of a proper sense of pride and self-respect of a person. Or a blustering, quarrelsome, overbearing person who habitually badgers and intimidates.
- Section 2 3, 4,: Policy Include victim proofing and educating students to not be victimized and educate bullies to not bully. (Inject this anywhere bully policy is mentioned.)
- Section 6 line 12 p 4. Immunity Hold school districts accountable for negligence in school victimization and bullying.

There *is* a better way. And it's quick, inexpensive, and leaves teachers with more time to teach rather than be constant conflict mediators. At the same time, it enhances students' emotional maturity, independence and resilience.

"Bully-proofing" programs require schools to protect students from each other by targeting and eliminating "bullies." However, if kids need to depend on their school to get rid of bullies, they are likely to stay victims for a very long time. In contrast, "Victim-proofing" teaches kids how not to be victims. When they know the simple rules, no one can bully them. And their problem disappears almost immediately.

*Victim-Proof Your School* is the simplest, most effective program you can find to reduce bullying and prevent violence. It is a truly American system that promotes freedom of speech, the cornerstone of our democracy. It teaches practice of the Golden Rule and is consistent with the major principles of wisdom, psychology and religion. The following table shows some of the basic differences between typical "bully-proofing" programs and *Victim-Proof Your School*.

### **Bully-proofing**

Victims rely on school staff and student bystanders to protect them from bullies  
Staff side with victims against bullies, and reward kids for thinking and acting like victims—promoting a victim mentality that handicaps kids for life  
Punishes bullies, making them angry and vengeful, leading to more intense bullying  
Requires school staff to spend *more* time as anti-bullying law enforcement officers  
Categorizes people into "virtuous victims" and "evil bullies"  
Teaches kids to blame bullies for their problems  
Violates Freedom of Speech  
Violates the Golden Rule by bullying bullies

### **Victim-proofing**

Victims solve their bully problems all by themselves  
Gets rid of the victim mentality—kids become more resilient, independent and emotionally mature  
Defuses bullying, so there is no retaliation  
Allows staff to spend *less* time enforcing laws and *more* time teaching  
Shows kids they determine whether people are their bullies or buddies  
Teaches kids to take responsibility for their own problems  
Promotes Freedom of Speech  
Promotes the Golden Rule by treating bullies as buddies

I tell them to answer honestly because their answers are going to be anonymous.

1. How often did your own kids at home hit each other or call each other names.
2. How often did your kids get hit or called names by other kids in school?
3. Do you or have you ever have people in your own lives that get mad at them regularly or whom they get mad at.

Then I collect the surveys, shuffle them and redistribute them so that everyone has a survey, but not their own.

I tell them I will be asking them to raise their hands for the answers, but I don't want anyone to be embarrassed by their responses, so they should realize the people raising their hands are not giving their own answers, but someone else's answers.

The results show that there is bullying going on in your own lives.

So how can they hold schools responsible for making bullying stop when there is bullying going on in your own lives?

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BLOGS

## A Psychological Solution to Bullying

When we advocate for laws against bullying, we declare the failure of psychology to solve the problem.  
by Izzy Kalman

### Senator Oley Larsen, the Best Friend of North Dakotan Schools

Misunderstood senator bravely combats misguided anti-bullying laws.

Published on March 9, 2011

It is easy to go along with the crowd. But to be one of the only people in the world actively taking a position against history's most popular crusade—the anti-bully movement—takes unparalleled courage.

Such a person is Senator Oley Larsen, who in the past month has become North Dakota's most despised individual. What very few people realize, though, is that he is actually their school's best friend. He is trying to save them from a well-intentioned but misguided anti-bullying law that will waste incalculable time and money while intensifying the very problem it is trying to eliminate. For anti-bullying laws are a Catch-22. As I will be explaining, the very attempt to comply with anti-bullying laws results in an *increase* in bullying.

Larsen intuitively understands what Aristotle said 2400 years ago: "One thing that no state or government can do, no matter how good it is, is to make its citizens morally virtuous." In current terms, "It is impossible to get rid of bullies by bullying bullies." Senator Larsen should be commended for his wisdom. Instead, he has been cruelly cyberbullied by anti-bullying activists posting mocking videos on YouTube, and writing nasty comments on Facebook and other Internet venues. Ironically, anti-bully crusaders see nothing wrong with bullying anyone who doesn't see things their way.

Fortunately for North Dakota, Senator Larsen has had the fortitude to continue his battle despite the vehement ridicule.

Taking a stand against anti-bullying laws does not mean that Larsen doesn't care about schools or children. He has nothing to gain personally by taking such a wildly unpopular position. In fact, the easiest way for him to promote his political career would be to take the easy route and give the bully-hating citizenry the laws for which they are clamoring.

However, there is no evidence either from the scientific research, real life experience, or logic to support anti-bullying laws. The bullying problem has been growing during the very period that governments have been fighting it the hardest. Research has shown overwhelmingly that the types of anti-bullying interventions being mandated by the law rarely reduce bullying and often cause an increase. Schools are discovering that they don't have the budget to comply with these laws. School staff can easily waste upwards of ten hours investigating each bullying complaint. Furthermore, educators are not trained to be law enforcement officers and usually resent being forced to play such a role. And once they get involved, hostilities escalate. In most of the prominent cases of bullying in recent years, in which children committed serious violence against themselves or others, the bullying almost always became aggravated *after* the school staff got involved trying to make the bullying stop.

The dynamics by which anti-bullying policies intensify bullying are simple. Psychology calls this process "triangulation."

Let's say you and I are kids in school and you insult me. I tell the teacher, who then sends you to the school principal, who in turn suspends you and forces you to go to counseling for bullying me. Is that going to make you *like* me? You're going to hate me and want to beat the crap out of me. You will get all your friends against me and make me look like scum on Facebook. You will also hate the school staff, and so will your parents.

Previous Post  
Principle Number Two: Actions Speak Louder Than Words—Or—Practice What You Preach



Izzy Kalman is the author/creator of the website Bullies2Buddies.com, and the world's most serious critic of the anti-bully movement. more...

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Now that the principal is involved, both sets of parents enter the fray. If the principal fails to make both sides happy, the disgruntled parents complain to the district office and may even hire lawyers to sue the school. With lawyers involved, the costs-and hostilities-skyrocket. And if the school loses the lawsuit, it is likely to be fined hundreds of thousands of dollars-or even millions.

If you apply the same procedures of investigating, judging and punishing your own children at home when they torment each other (and you probably do!), you end up with intensive, never-ending sibling rivalry. The same approach that causes intense warfare at home is hardly likely to produce peace in school.

The only people who unquestionably benefit from anti-bullying laws are lawyers and the companies that produce anti-bullying programs. "Anti-bullying" has become a billion dollar industry. Is it any wonder that the purveyors of these programs are on the forefront of lobbying for laws that force schools to implement anti-bullying programs?

Fortunately, there is a simple and free solution to bullying. It is the solution Senator Larsen has been advocating for, and it's not law but education: teaching kids the simple wisdom of how to stop being bullied. It is effortless to stop being bullied once you know how. And that's what Senator Larsen wants North Dakota's schools to be: educational institutions that equip children to handle the challenges of life rather than correctional institutions that treat children like criminals.

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