

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2/66

2001 SENATE EDUCATION

SB 2166

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2166

Senate Education Committee

Conference Committee

Hearing Date 01-23-01

Tape Number	Side A	Side B	Meter #
1		x	20.9 - end
2	x		0 - 15.9
1 (02-12-01)		x	17.2 - 42.6
Committee Clerk Signature <i>Andrea Johnson</i>			

Minutes: CHAIRMAN FREBORG called the hearing on SB 2166 which relates to waiver of accreditation rules by the Supt. Of Public Instruction.

**Testimony in support of SB 2166.**

GREG GALLAGHER, Education Improvement Team Leader, DPI, testified in support of SB 2166. (see attached).

SENATOR CHRISTENSON asked if the measure for student performance was on the basis of standardized testing. MR. GALLAGHER stated that testing is not the only tool to be used, and this allows the districts to determine the best tool for them to use. The importance is that the districts do measure performance aligned to the state's content standards. SENATOR WANZEK wondered if we are going to waiver rules for one entity, should we open the waiver process to all. MR. GALLAGHER responded that certain elements need to stay and should not be waived. SENATOR O'CONNELL asked how we can justify expanding the committee from 3 to 7 board members when we are trying to decrease government, and how often does the board meet. MR.

GALLAGHER responded that waiver committees meet as often as they need to, which is infrequently. Attached to his testimony is a list of waiver requests. He also feels the fiscal note is realistic. SENATOR COOK asked about the amount of waiver requests and the criteria for a waiver. SENATOR FREBORG stated he has some reservations on waivers given for early dismissal (or less school days). MR. GALLAGHER stated that the waivers are put forth under the current system and the waivers have anchor in student performance. SENATOR O'CONNELL asked what the duties of an educational improvement team leader are. MR. GALLAGHER stated it is a term associated with some of the committees organized during GOAL 2000, which is not in effect any more. SENATOR KELSH asked if this committee would have the power to waive the credentials for superintendents, or certification/qualifications for teachers. He stated the credentials would fall under this, but licensure would not. SENATOR KELSH wondered if this is a move toward charter schools. MR. GALLAGHER stated that HB 1172 deals with charter school options. He further explained the difference between the waivers in SB 2166 and any waiver approach that would be akin to charter schools. There is a separate proposal in HB 1172 to deal with the expansion of waiver opportunities that would be traditionally understood to be charter school options. SENATOR KELSH asked what amount of FED funds would be available if ND had a charter school law. MR. GALLAGHER stated there is an application process and over the past several years, Congress has appropriated \$90 million to be disbursed among appropriate states. SENATOR O'CONNELL asked if 173 days can be waived, is there anything that can't be waived. MR. GALLAGHER stated that licensure, health and safety can not be waived. In NDCC 15.1-06-04 the school calendar is identified, and in NDCC 15.1-06-05 the reasons are stated to exempt from the law of 173 days of school.

**Testimony in opposition to SB 2166.**

LARRY KLUNDT, ND Council of Education Leaders (NDCLE), testified in opposition to the bill. NDCLE believes the waivers and the waiver committee were put in place to provide schools with options. (example: Professional Development Leave: the committee agreed it was a good idea to create time for teachers for professional development which was supported by DPI and then put in place). The reason NDCLE has some opposition to this bill is they were not aware there is a problem that this legislation will solve.

BEV NIELSON, ND School Board Association (NDSBA), feels there are some specifics in the bill that are not needed, such as the requirement to meet state standards in English and Math in order to be eligible for a waiver. NDSBA is unaware of any problems with the current law. She wonders if this could further enhance political discussions and politicize the process by asking the Legislature involved in this process.

JOE WESTBY, ND Education Association (NDEA), feels the waiver committee has functioned effectively and efficiently in the past and sees no reason to change the structure or increase the cost of its operations.

SENATOR KELSH asked if the Supt. Of Public Instruction is able to override the decision of the waiver committee. He can. The committee is only to recommend. However, if the Supt. decides to grant a waiver and asks the committee for their recommendation, he needs the consensus of the committee by a majority.

DICK SCHAFFAN, Supt. Of Schools for Stanton, feels the waiver program works well. Their school used their waiver for their curriculum consortium. They meet 3 times a year ( for 1 - 1 ½ hours each time) and work on their curriculum to make their standards in line with the state standards.

GREG GALLAGHER testified that the waiver for Oliver/Mercer County was approved through the waiver committee, NDCC 15.1-06-08. They could have used the NDCC 15.1-06-05.

SENATOR COOK stated there are conditions to be met in 15.1-06-05 that are not in 15.1-06-08.

There was no further testimony on SB 2166.

**The hearing was closed on SB 2166.**

**02-12-01, Tape 1, Side B, 17.2 - 42.6**

SENATOR FREBORG distributed an amendment (18234.0102) to the committee members. It basically replaces the bill. He stated that with the amendment the accountability rests on DPI and the Superintendent. Legislative Council will designate the waiver committee. ANITA THOMAS, Legislative Council, explained the amendment to the committee. Current law allows the waiver of certain accreditation and approval roles provided the superintendent has the concurrence of a waiver committee. The intent is that there not be an abuse of discretion. The reason for repealing Sec. 15.1-06-05 is that this bill, as hog housed, does not require 15-05, if the school wanted to modify its school calendar, it could apply for a waiver. It would be considered duplicative.

**SENATOR COOK moved to adopt the amendment. Seconded by SENATOR WANZEK.**

SENATOR KELSH is not comfortable with the makeup of the waiver committee. He feels the committee should be expanded to include some people with education backgrounds. He feels the committee could politicize the department's decision. More committee discussion.

**Roll Call Vote: 5 YES. 2 NO. 0 Absent. Amendment adopted.**

**SENATOR COOK moved a DO PASS as Amended. Seconded by SENATOR WANZEK.**

**Roll Call Vote: 5 YES. 2 NO. 0 Absent. Motion Carried.**

**Carrier: SENATOR COOK**

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/14/2001

Bill/Resolution No.:

Amendment to: SB 2166

**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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

Engrossed SB 2166 (18234.0200) removes the current waiver committee from state law and provides for a report to the legislative council on all approved waivers.

Since all waivers would be reviewed and approved by the State Superintendent, there are expected to be no additional costs incurred by Engrossed SB 2166, beyond activities currently covered within the operational budget of the Department of Public Instruction

The anticipated fiscal impact by Engrossed SB 2166 (18234.0200) is \$0.

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

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

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

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the*

*executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Greg Gallagher	<b>Agency:</b>	Public Instruction
<b>Phone Number:</b>	328-1838	<b>Date Prepared:</b>	02/16/2001



**FISCAL NOTE**  
 Requested by Legislative Council  
 12/26/2000

Bill/Resolution No.: SB 2166

Amendment to:

**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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$2,000	\$0	\$2,000	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

SB 2166 provides for the expansion of the current waiver committee from three to seven individuals.

Given the nature of the work of the waiver committee, where waiver proposals are prepared in writing and the proposals' merits are deliberated, a combination of in-person and conference call meetings is appropriate to conduct its business.

It is estimated that using a combination of two conference call and in-person meetings per year, the waiver committee will encounter an additional cost of \$1,000 per year to cover travel and per diem costs. No stipends are issued to committee members. This amounts to \$2000 for the biennium and would come from the Department of Public Instruction's operating budget.

It is proposed that an appropriation of \$2000 be affixed to SB 2166.

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

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

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

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

<b>Name:</b>	Greg Gallagher	<b>Agency:</b>	Public Instruction
<b>Phone Number:</b>	328-1838	<b>Date Prepared:</b>	01/10/2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2166

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 15.1-06-08 of the North Dakota Century Code, relating to the waiver of accreditation rules by the superintendent of public instruction; and to repeal section 15.1-06-05 of the North Dakota Century Code, relating to modification of the school calendar.

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

**SECTION 1. AMENDMENT.** Section 15.1-06-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-06-08. ~~Conditions~~ Rules for school accreditation and approval -  
Waiver. The**

1. A school or school district may apply to the superintendent of public instruction ~~may waive any condition for a waiver of any rule governing the accreditation and approval for a reasonable period of time of schools,~~ provided the waiver encourages;
  - a. Encourages innovation, ~~permits experimentation,~~ and has
  - b. Has the potential to result in an improved program. ~~The superintendent may waive the conditions only with the concurrence of a majority of a waiver committee composed of one member appointed by the North Dakota education association, one member appointed by the North Dakota council of educational leaders, and one member appointed by the North Dakota school boards association educational opportunities or enhanced academic opportunities for the students.~~
2. The initial waiver must be for a specific period of time, but may not exceed one year. A school or school district for which a waiver has been approved under this section, may apply for one extension of the waiver. The extension may not exceed one year.
3. If the superintendent of public instruction, after receipt and consideration of an application for a waiver of a rule governing the accreditation of schools under this section approves the waiver, the superintendent shall file a report with a committee designated by the legislative council. The report must cite the accreditation rule that was waived, provide a detailed account of the reasons for which the rule was waived, and state the time period for which the rule was waived. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the committee designated by the legislative council. If requested by the chairman of the committee, the superintendent shall appear before the committee and respond to questions regarding the approval or denial of any application for a waiver.
4. Any waiver granted by the superintendent of public instruction prior to the effective date of this Act is void as of the effective date of this Act. Any school or school district operating under a waiver granted by the superintendent prior to the effective date of this Act may apply for a new waiver under this Act.

