

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2166  
(Education Committee)  
(At the request of the Department of Public Instruction)

AN ACT to create and enact section 15.1-06-08.1 of the North Dakota Century Code, relating to the waiver of statutes; and to amend and reenact sections 15.1-06-05 and 15.1-06-08 of the North Dakota Century Code, relating to the reconfiguration of instructional days and the waiver of accreditation rules.

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

**SECTION 1. AMENDMENT.** Section 15.1-06-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-06-05. ~~School calendar — Modification~~ Instructional days - Reconfiguration - Application.** ~~A school district may apply to the superintendent of public instruction for approval of a pilot program in which the district's school calendar is reduced below one hundred eighty days.~~

- ~~1. The superintendent may approve an application for a pilot program if:~~
  - ~~a. It allows the district to evaluate the modifications in the traditional school calendar from the perspective of increased school facility use; and~~
  - ~~b. In the opinion of the superintendent, the program offers educational opportunities equivalent to those available in a one hundred eighty day school calendar.~~
- ~~2. A district submitting an application under this section shall specify:~~
  - ~~a. The minimum number of days students will attend school; and~~
  - ~~b. The comparable instructional time.~~
- ~~3. A school district may apply to the superintendent of public instruction for permission to reconfigure the number of instructional days required by section 15.1-06-04.~~
2. The superintendent of public instruction may approve an application under subsection 1 only if the reconfiguration of the required number of instructional days:
  - a. (1) Makes available to each of the school district's elementary students at least nine hundred fifty-one and one-half hours of instructional time and makes available to each of the district's high school students at least one thousand thirty-eight hours of instructional time; and
  - (2) Does not reduce the hours of instructional time below the level made available to elementary students and high school students, respectively, by the school district during the last school year completed prior to the date of the application; and
  - b. (1) Encourages innovation;
  - (2) Provides improved educational opportunities or enhanced academic opportunities for the students;
  - (3) Provides for greater flexibility in the use of a school by current students;

- (4) Provides for greater flexibility in the use of a school by individuals or groups other than current students; or
  - (5) Results in significant cost-savings to the district.
- 3. A reconfiguration of instructional days approved by the superintendent of public instruction under this section is valid for one school year. A school district may apply to the superintendent for permission to extend the reconfiguration of instructional days for one additional year.
  - 4. If the superintendent of public instruction approves a district's application for reconfiguration of instructional time under this section, the district is eligible to receive the per student payments provided under chapter ~~15.1-28~~ 15.1-27.
  - 4. ~~A district that operates an approved pilot program under this section for a period of three years may apply to the superintendent for permanent approval of the program.~~
  - 5. The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications, the evaluation of proposals, and any other matters necessary for the administration of pilot programs and the monitoring of any school or school district that receives a waiver under this section.
  - 6. A ~~pilot program~~ reconfiguration of instructional days approved by the superintendent of public instruction under this section satisfies the requirements for school operation and instructional time required by law.
  - 7. A ~~pilot program~~ reconfiguration of instructional days approved by the superintendent of public instruction under this section does not affect the accrual of teachers' benefits provided by law.

**SECTION 2. 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 a 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.

**SECTION 3.** Section 15.1-06-08.1 of the North Dakota Century Code is created and enacted as follows:

**15.1-06-08.1. Statutes - Waiver.**

1. The superintendent of public instruction may not waive any statute, in whole or in part, except as provided for in this section.
2. A school or school district may apply to the superintendent of public instruction for a waiver of section 15.1-21-03, provided the waiver:
  - a. Encourages innovation; and
  - b. Has the potential to result in improved educational opportunities or enhanced academic opportunities for the students.
3. The initial waiver must be for a specific period of time but may not exceed one year. The school district may apply for extensions of the waiver. The first extension may not exceed a period of one year. Additional extensions may not exceed periods of two years.
4. If the superintendent of public instruction, after receipt and consideration of an application for a waiver under this section, approves the waiver, the superintendent shall file a report with a committee designated by the legislative council. The report must provide a detailed account of the reasons for which the waiver was granted and the specific time period for the waiver. 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 under this section.
5. The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications and the monitoring of any school or school district that receives a waiver under this section.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2166.

Senate Vote:      Yeas      45      Nays      2      Absent      2

House Vote:      Yeas      75      Nays      22      Absent      1

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2001,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State