

2015 SENATE EDUCATION

SB 2152

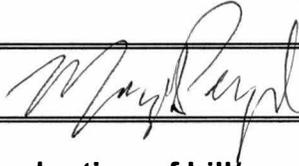
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SB 2152
1/21/2015
Job # 22261 (20:11)

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

INITIAL HEARING

relating to the suspension of school district personnel

Minutes:

3 attachments

Don Schaible, District 31 Senator (*see attachment #1*)

Senator Oban: Why are we removing page 3 lines 7-9 "suspend or dismiss", and just making it a dismissal? Don't we want to be able to allow them to suspend it and then potentially dismiss?

Senator Schaible: A suspend would take board action and need a process to go through whereas dismiss would be something they could do immediately.

(2:35) **David Rust**, District 2 Senator (*see attachment #2*)

Senator Oban: I would like to ask you the same question, why are we removing "suspend"?

Vice Chairman Rust: It's perhaps no longer necessary since already stated before when it talks about dismissal. Mr. Martinson will be able to clarify that for you.

Senator Oban: On page 2, we are allowing the school board to give authority to the superintendent to suspend personnel outside of teachers. Correct?

Vice Chairman Rust: Section 15.1-15-10 says it is the school board that may suspend. Section 2 of the bill allows that person that has been designated by the board to suspend a teacher, principal or assistant superintendent in the case of an alleged child abuse or neglect. I would defer to the wishes of the North Dakota School Board Association. They deal with those situations. It appears to me that it does take away the ability to do that for teachers.

(9:10) **Jon Martinson**, Executive Director of the North Dakota School Boards Association (*see attachment #3*)

Martinson: To answer Senator Oban's question, the overstrike is there because it was simply relocated on page 2 line 25. It just moved to another section.

Chairman Flakoll: In Paragraph 2, how would this work with a unanimous vote? If you have a 7 member board and someone happens to be overseas, is it unanimous of those present with a quorum?

Martinson: Correct.

Senator Davison: How does the school board without meeting give the authority to the superintendent?

Martinson: If this bill passes, we will make sure that boards know they have the authority to delegate that to the superintendent prior to some incident.

Senator Davison: If it's immediate, they would have to get together to delegate with the superintendent. If the intent is to be faster without having to meet, how would you delegate that?

Martinson: The board would have the authority to delegate to the superintendent the decision to suspend an employee prior to the incident. Once that becomes known to the board would pass the motion to allow that happen for the future, not per instant.

Senator Davison: They would have to vote once on the board, even if they change superintendent?

Martinson: Correct.

Chairman Flakoll: So it delegates to the Superintendent, not to individual Superintendents?

Martinson: Correct.

Senator Oban: On page 3 we don't need lines 7-10 because on page 2 line 30, it says that they can dismiss school district personnel. If a school district business manager is already considered school district personnel, we don't need that. It is repetitive and we should clean it up.

Martinson: Some of the language here is determined by Anita Thomas. My knowledge is that the suspension part was removed and transferred to page 2 line 25, so other than the language, I'm still not quite getting your concern with the intent.

Senator Oban: This is a question for Anita Thomas I believe

Martinson: I can only explain intent.

Chairman Flakoll closes the hearing for SB 2152.

Senator Marcellais: The business manager right now is still under the superintendent and not under the board at this point until that bill passes (referring to separate bill).

Senator Oban: I agree with that, but no matter who has authority over the business manager, they are still considered school district personnel. It is simply repetitive language whether or not that previous bill passes.

Senator Marcellais: We need to discuss this with legislative council.

Chairman Flakoll ends the discussion for SB 2152.

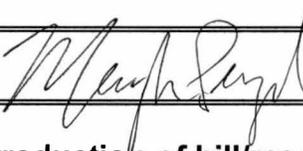
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SB 2152
1/21/2015
Job # 22266 (8:55)

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE WORK with Anita Thomas, Legislative Council

Minutes:

No attachments

Chairman Flakoll called the committee to order with all members present for committee work.

Senator Oban: My question is on page 3 line 7-10. It is my understanding that a business manager in a school district is considered school district. Why do we need these lines if on the previous page line 24 and 30, it says that a school board can suspend and dismiss school district personnel?

Thomas: The entity that asked to have this worked on was making a distinction between school district personnel and school district business managers. We could treat everyone as personnel and clean it up. If you want to make a distinction, then you would want to keep this separate. When we're writing the law and referring to school district personnel, it refers to everybody unless we have a specific reference to someone else.

Senator Oban: Do we have a definition of school district personnel somewhere within code that I should reference?

Thomas: No.

Vice Chairman Rust: Is it possible that this is taking too much time in the law? This position used to be a clerk, an agent who didn't even have to be present in the building. As time went along, it seemed appropriate to have this increase the duties and status within organization structure. I wonder if lines 28 and 29 weren't in there and just have tagged along for a number of years.

Thomas: That may very well be the case. That is a section of the law that is not attended to very often.

Chairman Flakoll: Does it matter either way?

Thomas: not to me, but I will amend it whichever way the committee decides.

Chairman Flakoll: If we were to overstrike page 3 lines 7-10, what would that do regardless of other bills?

Thomas: The only major distinction would be that the business manager would be treated as any other school district personnel without the separate reference to for cause or not for cause...very little.

Senator Schaible: If we made it just like everybody else, then the superintendent could dismiss the business manager. The way it is currently now, doesn't it have to be done by the school board?

Thomas: Right now, under this particular section, the school board is authorized to dismiss all school personnel including the business manager. The ongoing discussion is whether or not that is appropriate or that ought to be part of the delegated duties of the superintendent.

Senator Oban: Even if it is not delegated like in section B, those are separate from that delegation because this entire thing is about the powers the school board has and specifically says they can dismiss and suspend. Again, it is repetitive.

Thomas: Correct. If you want to think of the school business manager as the equivalent of any other employee of the district, then the language is not needed.

Vice Chairman Rust: If line 22 says suspend school district personnel and then has additional delegate to the superintendent, then without having lines 7-10, the superintendent can now suspend the business manager. 7-10 says it is the board's decision to do that.

Thomas: Under line 22, the board has the authority to suspend school district personnel and can delegate the authority to suspend school district personnel. The dismissal school district personnel under 23 would remain a matter for the board. If you allow it in those hands, then you do not need the 7-9.

Chairman Flakoll closes the discussion on SB 2152.

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SB 2152
1/27/2015
Job # 22616 (3:12)

- Subcommittee
 Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

COMMITTEE WORK, 11:00am

Minutes:

No attachments

Senator Oban: Anita Thomas was here and we had discussed taking out language on page 3, lines 7-10.

Senator Schaible: I had discussions about the school board about that and the relevance of that being in there. It may be somewhat of a duplication, but they thought it was important. If you delegate this authority to taking those lines out, when a school board would do this, they would delegate the authority to suspend somebody, but this makes sure that the school board wants to delegate that authority to make sure that the superintendent could dismiss the business manager. This helps clarify who the business manager works for, whether it is the superintendent or the school board. The School Boards Association wanted that in there to make sure that they had the intent that the school board should dismiss the business manager.

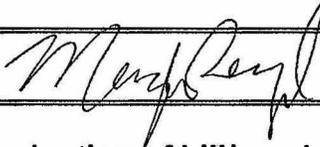
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SB 2152
1/27/2015
Job # 22667 (3:54)

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE ACTION

Minutes:

No attachments

Senator Schaible: The only question we had was whether or not we wanted to take out lines 7-9 on page 3. I see merit in leaving it in.

Senator Davison: I think we need to leave these lines in. I think we need to be more intentional up front with this bill. I recognize that Anita claims it probably doesn't serve a great purpose, but it clarifies things. It is very intentional and I like that.

Senator Oban: I am the one who brought this to attention and I'm happy to let it go. It is just worth noting. That is the point I wanted to make. It is not to me worth holding up the process.

Senator Davison motions for a do pass on SB 2152.

Senator Schaible seconds the motion.

Chairman Flakoll: I would like to note that there is not a fiscal note for this bill.

A vote was taken: Yes: 6, No: 0, Absent: 0

Senator Schaible will carry the bill.

REPORT OF STANDING COMMITTEE

SB 2152: Education Committee (Sen. Flakoll, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2152 was placed on the
Eleventh order on the calendar.

2015 HOUSE EDUCATION

SB 2152

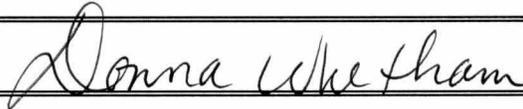
2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

SB 2152
2/23/2015
24240

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the suspension of school district personnel.

Attachment #1-2.

Minutes:

Chairman Nathe: opened the hearing on SB 2152.

Senator Schaible: District 31: introduces SB 2152 with the request of North Dakota School board Associations. This bill changes Section 15.1-9-32 of Subsection 22. Currently the school board has the authority to suspend district personnel under certain conditions, but to do that would require school board action. Which requires the school board to meet at a special or regular meeting and that takes time. The changes that are recommended is to allow this authority to be delegated to the superintendent allowing that individual to be immediately suspended and with pay if necessary. In the case the school does not have a superintendent then it would be delegated to the person in charge of the administration of that school. The school board does not have to delegate this authority if they do not want to but they want that option. This bill gives them the option. The changes on page 3 and 4 of this bill would make the same changes in the language for an alleged child abuse case.

Rep Hunskor: The superintendent would make that decision on his own?

Senator Schaible: If this bill would pass the school board could delegate that authority to the superintendent. Then the superintendent would have the right to immediately suspend.

Rep Hunskor: At the beginning of the school year supposedly they could give that authority to the superintendent for the school year. Then if something happened the superintendent could call a person in a say you are done.

Senator Schaible: Yes, according to what you describe. Right now they cannot do that without board action. This bill would delegate that authority.

Rep Kelsh: Page 3 line 21 subsection 28 and 29 where it removes "suspend or dismiss" and just put "dismiss". Wouldn't there be instances where until the facts brought in that they might want to suspend. It appears they would have to dismiss the person?

Senator Schaible: The school district business managers are hired by the school board so and they should be the ones that should be dealing with the school board. I think that the distinction this was trying to make is the question of who the school business manager works for. It should be the school board and therefore it is the school board should decide those issues

Rep Kelsh: The issue here is they can't suspend them. They would have to dismiss them. Can't they suspend and look for facts? I am not understanding the reason they would take the suspension out of there.

Senator Schaible: I am not able to answer that but there are people coming up to testify that may.

Vice Chairman Schatz: There would be no hearing then, the superintendent could just make a decision where before they had to have a group meeting or informal hearing?

Senator Schaible: The hearing part doesn't change if it is for example a coach is doing something to a player that where action needs to be taken. The suspension does not mean it is a dismissal. It means suspended until the hearing. It just delegates the authority to the superintendent from the school board. The hearing is still going to take place.

Rep Zubke: I think the suspension part is covered on page 2 line 25-29 that Rep Kelsh is asking about, if I understand the bill properly.

Chairman Nathe: It gives them the authority to do that.

Rep. Olson: Rep Zubke, on page 2 line 25-29 that is authority that is delegated, but this entire section has to do with the authority of the school board, which it appears as Representative Kelsh noted on page 3 line 7 and line 9 that this bill would remove the ability to suspend the district manager but only have the option to dismiss him. What is dealt with on page 2 is the superintendent.

Rep B. Koppelman: I do have one concern about on page 3 line 7 and 9 that within districts, typically the business manager answers directly to the school board often times, and is not someone under the superintendent. Sometimes the school board may want to suspend the business manager. In that case in this bill is a little bit unique to the rest of the circumstances in this bill because of that direct relationship. Where I am from, the superintendent had direct control and the board has very little direct control with anyone beneath superintendent. But the business manager is almost a parallel position. The superintendent and the business manager are the two direct employees of the board. Do you see harm in the bill if we would unstrike and leave lines 7 and 9 as they are on page 3? Then either one could suspend.

Senator Schaible: The issue of this is who the business manager actually works for. If the school board is going to suspend or dismiss it has to be within a board meeting so either way I don't see that as changing. They can be dismissed or suspended. The next testifier may have better answers than I.

Jon Martinson, Executive Director of North Dakota School Boards Association: In support of HB 2152. (9:05-11:05). (See Attachment # 1). To answer Representative Kelsh when he talked about on Page 3 Line 7 and 9, where they were taking out the suspension part. It was stricken out of those lines but it was put in page 2 lines 25-27. That is where the suspension part is.

Rep B. Koppelman: I feel it is important as a board member to directly deal with the business manager much like you deal with the superintendent. If you take out of page 3 line 7 and 9 that does not allow the board the ability to put the business manager on paid leave if they wanted to take that direct action around the superintendent. Explained an example of a business manager. (12:55-13:15). We have to be careful to not put the business manager completely subservient to the superintendent because sometimes the board needs information from the business manager to evaluate the superintendent. Do you think it would be harmful to the bill if we unstrike Line 7 and 9 on page 3 and remove the underline?

Jon Martinson: On Page 2 line 24, the board still has the authority to suspend district personnel. I do think it is addressed here and we agree with you.

Rep Kelsh: The last statement on your testimony says "the decision making body for each of these processes and eliminating the requirement that the board act on the suspension would prevent the board from receiving information in an open public meeting in advance of a possible non-renewal or discharge hearing." Wouldn't that cause concern to the school districts that maybe something is happening here that is not coming out that we should know about? Doesn't this close the process?

Jon Martinson: So for example, something happened in the school and this bill would give that superintendent the authority to suspend with pay that individual pending an investigation. If they proceed with discharge that meeting then can go to executive session if both the individual and the board agree. So you are right, Representative Kelsh the decision to suspend with pay would be the authority of the superintendent pending an investigation and maybe nothing happened. That is the rationale for it.

Chairman Nathe: Is there any other support for SB 2152? None. Any opposition to HB 2152?

Fern Pokorny, North Dakota United: In opposition in SB 2152. (17:00- 19:28). (See Attachment #2).

Rep B. Koppelman: You say the school board would lose their ability to their ability to suspend District personnel, what would you say about page 2 line 24? Mr. Martinson

suggested that the school board may "suspend school district personnel ? How would that not allow the board to continue to suspend school district personnel?

Fern Pokorny: It doesn't, and I am not saying they can't. I am just saying that they already can. But in many cases until the investigation is completed the superintendent now has the right to ask people to leave the building until that investigation is completed. It doesn't have to go to the board until the investigation is done.

Rep B. Koppelman: Your opposition to this bill is that you are concerned the school district is giving up what authority? I think that is what I heard you say?

Fern Pokorny: My opposition is two-fold. We have elected this group to deal with these issues and Mr. Martinson says the suspension is with pay but I have not be able to find any place that it is with pay.

Chairman Nathe: You say it is up to the school board who is elected by the people. What is wrong with giving them that option of granting this authority to the superintendent?

Fern Pokorny : My point is they already can and in many cases do.

Rep Hunskor: Is there that much difference between administrative leave and suspension?

Fern Pokorny: The end result is not different. Administrative leave does not require a public vote. Their name is not published and avoids damaging their reputation until the investigation is completed.

Rep Hunskor: If there is a situation in a school and a teacher is placed on administrative leave, everyone in the community knows it anyway if that same teacher is suspended they all know it, is there any difference?

Fern Pokorny: In my experience it is not really in the public if it is under administrative leave. It could be so short lived no one even notices. Allegations are made sometimes don't need a lot of time for investigation so to bring the whole matter to the board takes a lot of time and effort that isn't really needed.

Rep Hunskor: Help me to understand if a person is suspended how come the community knows so much about it where on administrative leave they don't?

Fern Pokorny: If we suspend through the board there is a public vote. If we do it with administrative leave then there is not. If we would insert to "suspend with pay" I would be more comfortable the way this bill is written. Administrative leave and suspension are basically the same thing, the difference is the way it is now the board does it, the way I was suggesting we keep it the administrator does it. Here they are saying the administrator should do it but there is no guarantee it is with pay.

Rep Mock: Is there a difference in how it is reported in the individuals file if it is suspended or on administrative leave? Are there consequences with one that is different than the other?

Fern Pokorny: Not to my knowledge.

Rep Mock: If an employee has had allegations and they are being investigated I presume this is something that would be included in their personnel file. Is this just a question of authority to suspend without having to go to a vote?

Fern Pokorny: That is my understanding.

Rep Mock: Because there is no difference between administrative leave and suspension with pay, you would be more comfortable if it was clearly written that they could delegate the authority to a superintendent to suspend with pay or its chief officer.

Fern Pokorny: I would be more comfortable, I do think this bill opens up to more abuses that Representative Koppelman noted earlier.

Rep B. Koppelman: I looked up 15.1-15-10 that is referenced in code on those two lines. If the individual is discharged for cause the board may determine the amount of compensation if any payable to the individual during the suspension. If the individual is not discharged the board may not apply any reduction to the individual's salary for the period of suspension. This is covered by law already. The bill as it sits right now would give the administrator the authority to put them on paid leave without specifically asking the board until the situation is decided. There is no circumstances do I see where the board can even delegate the authority under law for that individual to be put on unpaid leave.

Rep Kelsh: If a student comes to a principal and says a teacher became angry and threw me up against a wall. This bill would give the superintendent the right to have that teacher leave the building. Does this bill say that this doesn't have to go to the board at all until the investigation is completed? How does the law work?

Fern Pokorny: My understanding is that the teacher can be asked to leave the building without going to the board, but if there is an action beyond reprimand that would still go to the board. The board still retains the right to fire.

Rep Kelsh: Is it that the superintendent can fire without ever going to the board?

Fern Pokorny: No, they can only ask them to leave the building or suspend.

Rep Hunskor: So I am the superintendent and I say to the teacher you are suspended you are on administrative leave, isn't suspend and administrative leave the same thing? Pending the hearing and action by the board, you allude to there is not vote, but where is the vote? I cannot see where it is different?

Fern Pokorny: You are right. Administrative leave and suspension is the same but I am not sure it is very clear in the law that suspension is with pay until it comes to fruition.

Chairman Nathe: Any other opposition to SB 2152? Seeing none. Closed the hearing on SB 2152.

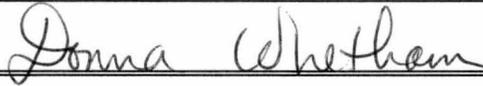
2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

SB 2152
3/4/2015
24311

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the suspension of school district personnel.

Minutes:

Chairman Nathe: reopened the hearing on SB 2152. This bill gives the school board the ability to give the authority to the superintendent for suspension of personnel.

Rep Looyen: Moved Do Pass on SB 2152.

Rep Schreiber Beck: Seconded.

Vice Chairman Schatz: We did have some opposition to this one. I am assuming that the teachers are against it. I thought it was too much power in one hand.

Chairman Nathe: The opposition came from Fern from ND United. I have it in my notes that her concern was that they would be suspended with pay, that was the main concern.

Rep Meier: That is correct, we should look at the language in this bill and amend it to state that. I think that is a good request.

Rep Schreiber Beck: I believe that language exists. The confusion was is there is no reference to administrative leave within the language and the century code and that is why the word suspend or suspension was used.

Chairman Nathe: On Page 2 line 26 the section 15.1-15-10 would give the board the decision to pay on suspension, so the board would decide that. The opposition was concerned that they should be paid no matter what. I

Rep Hunskor: I wonder if we are moving too fast. I think we should have more thought on this before we move on this.

Chairman Nathe: We have a motion before us, what are some of your issues?

Rep Hunskor: Just some of the things I have heard here.

Chairman Nathe: I think Rep Meier's question is answered on line 26 page 2. Where it gives the board the option to pay or not pay them on suspension.

Rep. Olson: As provided for in that section if they are not let go they do have to be paid. So if they are suspended they would be paid, if they are later on reinstated, but if they are let go then they are not paid for that suspension period. If we mess with language and try to put it into this bill it will supercede what they have done there.

Vice Chairman Schatz: The board giving up their power to have a hearing with a teacher. You are just putting one person in charge of suspending this person. Money or no money there is a stigma attached to being told to go home because you are suspected you did something wrong. Let's say they found out you didn't do anything wrong. Still in the minds of a lot of people you have done something wrong. I want to have a hearing before a group rather than one person.

Chairman Nathe: If they are suspended through the board it would be a public vote and if they are suspended through the superintendent there is no public vote. The school board has the authority to delegate that authority to the superintendent or not. It is really up to them.

Rep. Olson: If they are suspended by the board than everyone does know but if it is done by the superintendent then there is no knowledge of that .

Vice Chairman Schatz: But at least you get your day in court and get a chance to give your side of it.

Rep Schreiber Beck: To clarify that question, there will be a hearing held by the board, it is just the immediate action by the superintendent. If there was a situation where a person needed to be suspended immediately this would allow that action.

Vice Chairman Schatz: That is assuming that all superintendents are angels and they don't have any axes to grind themselves. You are giving the power into one hand.

Rep Schreiber Beck: But that is an action the board decides if they want to allow that superintendent the authority.

A Roll Call Vote was taken. Yes: 9 No: 3 Absent: 1.

Rep Schreiber Beck: will carry the bill.

Date: 3/4/15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2152**

House Education Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Looyzen Seconded By Rep. Schreiber Beck

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------|-----|----|-----------------|-----|----|
| Chairman Nathe | ✓ | | Rep. Hunsakor | ✓ | |
| Vice Chairman Schatz | | ✓ | Rep. Kelsh | | ✓ |
| Rep. Dennis Johnson | ✓ | | Rep. Mock | | ✓ |
| Rep. B. Koppelman | A | | | | |
| Rep. Looyzen | ✓ | | | | |
| Rep. Meier | ✓ | | | | |
| Rep. Olson | ✓ | | | | |
| Rep. Rohr | ✓ | | | | |
| Rep. Schreiber Beck | ✓ | | | | |
| Rep. Zubke | ✓ | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) 9 No 3

Absent 1

Floor Assignment Rep. Schreiber Beck

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

REPORT OF STANDING COMMITTEE

SB 2152: Education Committee (Rep. Nathe, Chairman) recommends DO PASS
(9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SB 2152 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

SB 2152

#1
1/21/2015

SB 2152 January 21, 2015

Good morning Chairman Flakoll and the Senate Education Committee,

For the record, I am Senator Donald Schaible, representing district 31. I am here to introduce SB 2152 at the request of the North Dakota School Board Association.

This bill would make a change to Section 15.1-9-33 subsection 22. Currently the school board has the authority to suspend school district personnel under certain conditions. But to do that would require school board actions, which would require the board to meet at a special or a regular meeting, and that all take time.

The change that is recommended is to allow the authority to be delegated to the superintendent, allowing that individual to immediately suspend an individual with pay if necessary. In the case of a school that does not have a superintendent, it would then be the individual charged with administering for that school.

The school board would not have to delegate this authority if they do not want to, but may want that option and that is what this bill would do.

The changes on page 3 and 4 of this bill would make the same changes in the language for alleged child abuse.

Chairman Flakoll and committee that concludes my testimony and I would be happy to answer questions if I can.

Mr. Chairman and Members of the Senate Education Committee:

For the record I am David Rust, Senator from District 2 in NW ND.

I rise in support of SB 2152. Section 1 of the bill allows the school board to delegate to the superintendent or an individual charged with administering the district the authority to suspend school district personnel with the exception as provided in section 15.1-15-10.

Section 2 allows that "a teacher, a principal, or an assistant or associate superintendent" "may be suspended" if a report alleges child abuse or neglect. The suspension can done by either 1) the board or 2) a superintendent or individual charged with administering the district IF authorized in advance by the board.

Current law only allows for suspension of certified personnel by the board only. (See NDCC 15.1-15-10 below)

There are cases where it is expedient to have the superintendent suspend an employee (with pay). It provides a "cooling off" period and allows time for the collection of facts. Sometimes it isn't possible to quickly call a special school board meeting. If such a meeting is called, that meeting can quickly get out of hand with accusations leveled by patrons, parents, other employees,

etc. All of which may have the added pressure of the media present.

In today's world it is common place for individuals who work for the public to be placed on leave with pay until an investigation is complete and a determination has been made to either return the individual to work, to further suspend until certain conditions are met, or to terminate that individual's employment.

It also is good for the employee (even though that individual may or may not agree) as it takes him/her out of possible conflicts or tense situations.

In addition, it may reduce the school's liability regardless of the outcome of the collection of facts and subsequent determination.

Again, I urge a "Do Pass" and will try to answer any questions you may have.

Thank you.

15.1-15-10. Suspension during discharge proceeding - Compensation.

1. The board of a school district may suspend an individual employed as a teacher, a principal, or as an assistant or associate superintendent if, by unanimous vote, the board determines that suspension is appropriate during the period in which a discharge for cause is pursued.
2. The board shall address the matter of the individual's suspension in an executive session, unless both the board and the individual agree that the matter may be addressed in the presence of others or at an open meeting of the board.
3. If the individual is ultimately discharged for cause, the board may determine the amount of compensation, if any, payable to the individual during the period of suspension. If the individual is ultimately not discharged, the board may not apply any reduction to the individual's salary for the period of suspension.

#3

1/21

Senate Education Committee

January 21, 2015

Testimony by Jon Martinson, Executive Director

North Dakota School Boards Association

SB2152

The purpose of this bill is to delegate authority to the superintendent (or to the individual in charge of administering the district if the school does not employ a superintendent) to suspend school district personnel and put the individual on **PAID** leave.

You will note that the authority granted in this bill does not extend to section 15.1-15-10 that deals with suspension during a discharge for cause hearing. That section deals with **UNPAID** leave pending a discharge proceeding and that decision remains with the school board and requires a unanimous vote.

If this bill passes, the superintendent would not be required to request a special meeting of the school board or wait until the next regular meeting of the board to make a request that an employee be placed on paid leave.

The superintendent could immediately suspend the employee and proceed with the appropriate investigation. Once the investigation is complete, the superintendent can then bring the matter to the board, if necessary, for nonrenewal or discharge action under the appropriate law. The board is the decision making body for each of these processes and eliminating the requirement that the board act on the suspension would prevent the board from receiving information in an open public meeting in advance of a possible non-renewal or discharge hearing and preserve the integrity of the process.

1/21

#1
SB 2152
2/23/15

House Education Committee

February 23, 2015

Testimony by Jon Martinson, Executive Director

North Dakota School Boards Association

SB2152

The purpose of this bill is to delegate authority to the superintendent (or to the individual in charge of administering the district if the school does not employ a superintendent) to suspend school district personnel and put the individual on **PAID** leave.

You will note that the authority granted in this bill does not extend to section 15.1-15-10 that deals with suspension during a discharge for cause hearing. That section deals with **UNPAID** leave pending a discharge proceeding and that decision remains with the school board and requires a unanimous vote.

If this bill passes, the superintendent would not be required to request a special meeting of the school board or wait until the next regular meeting of the board to make a request that an employee be placed on paid leave.

The superintendent could immediately suspend the employee and proceed with the appropriate investigation. Once the investigation is complete, the superintendent can then bring the matter to the board, if necessary, for nonrenewal or discharge action under the appropriate law. The board is the decision making body for each of these processes and eliminating the requirement that the board act on the suspension would prevent the board from receiving information in an open public meeting in advance of a possible non-renewal or discharge hearing and preserve the integrity of the process.



Great Public Schools

Great Public Service

#2
SB 2152
2/23/15

Testimony of Fern Pokorny
Opposition to SB 2152
February 23, 2015

Good morning Mr. Chairman Nathe and members of the House Education Committee. For the record, my name is Fern Pokorny with North Dakota United. I stand in opposition to Senate Bill 2152, Suspension of School District Personnel.

Quite frankly, this bill surprises me since School Boards are usually very protective of their power and responsibilities. This bill gives away the right of the school board to suspend personnel except in a teacher discharge proceeding, 15.1-15-10.

School Boards have already given their administrators, usually the Superintendent the right to put district personnel on "administrative leave" to complete an investigation. We as an organization have not objected to this. The idea is the same as suspending them – remove them from the building/students until the allegation can be proven.

I have been called by members who have been placed on "administrative leave". As long as our members have been paid while the administration does due diligence, we have never objected. This bill is not necessary since the immediate concern can be dealt with in this manner.

It would be an unusual Board who would not want to know what is happening in the district with personnel. So this bill is not necessary to accomplish what the NDSBA has indicated because they are already removing people from their positions now. When the investigation is completed, our members generally return to work. A public suspension isn't usually needed.

Public Schools are governed by an elected Board of district patrons. It's more appropriate to have this group making these potential life changing decisions rather than one administrator. Please give this bill a DNP recommendation.