

1999 SENATE EDUCATION

SB 2141

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2141

Senate Education Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
1		x	226-2762
Committee Clerk Signature <i>Jinda Christman</i>			

Minutes:

SENATOR FREBORG : The hearing is now open on SB2141. Any testimony in favor.

Pat Seaworth, General Counsel of North Dakota University System testified in favor of the proposed amendment. Testimony attached with proposed amendment to bill. Request favorable consideration of the bill with the proposed amendment..

SENATOR WANZEK : You can remove the language that refers to the private foundation or alumni association because the Attorney General deems that they are already considered private. But does that also allow you to keep quiet when a foundation has given large sums of money to a school or university.

Pat: Once a donation is done, it is no longer private, it becomes public.

SENATOR WANZEK : Why are the activities of a private foundation private but yet the activities of a private citizen or individual are not considered private.

Pat: Private information is private but becomes public if individual makes a donation to a public institution. We want the ability to keep donors identity classified if they so desire.

SENATOR FREBORG : Any more testimony in favor of SB2141? Any opposition? Jack McDonald has written testimony which was passed out. He is not present. Testimony is not in opposition.

SENATOR WANZEK : Do we have SB2141 before the committee now?

SENATOR FREBORG : We will now close the hearing on SB2141.

SENATOR FREBORG : Any discussion?

SENATOR WANZEK : I would move the amendments that were proposed to us which would remove reference to private foundations or alumni associations. Considering the explanation the Attorney General feels it is redundant and not necessary.

SENATOR FREBORG : Do we have a second.

SENATOR O'CONNELL : I second the motion.

SENATOR FREBORG : Any discussion on the motion to adopt the amendment. Clerk take the roll for a motion to adopt proposed amendment. Vote 7 Yes 0 No. Motion carried.

SB2141 has now been amended.

SENATOR WANZEK : I move for a DO PASS.

SENATOR O'CONNELL : I second the motion.

SENATOR FREBORG : Vast majority of contributions maybe not in number but in dollars are given with other things in mind other than trying to influence something.

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Senate Education Committee

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SENATOR O'CONNELL : There are so many safeguards in place now that limits that sort

of thing from happening.

SENATOR FREBORG : Any discussion on motion for DO PASS as amended on SB2141.

Clerk take the roll on a DO PASS as amended on SB2141. Vote: 5 Yes 2 NO

Motion carried. Bill carried by SENATOR WANZEK .

Stand in recess.

Date: 1/12/99
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2141

Senate EDUCATION Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Motion to adopt amendment

Motion Made By Sen Wanzek Seconded By Sen O'Connell

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 1/18/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2141

Senate EDUCATION Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Motion for Do Pass as Amended

Motion Made By Sen. Wanzek Seconded By Sen. O'Connell

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman		✓			
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh		✓			
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 5 No 2

Absent _____

Floor Assignment Sen. Wanzek

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

REPORT OF STANDING COMMITTEE

SB 2141: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "college and university foundations and" with "board of higher education and university system officers or employees"

Page 1, line 3, remove "alumni associations"

Page 1, line 7, replace "**college**" with "**board of higher education**" and replace "**foundations and alumni**" with "**system**"

Page 1, line 8, remove "**associations**"

Page 1, line 9, remove "private foundation or"

Page 1, line 10, remove "alumni association affiliated with a state college or university or by a"

Renumber accordingly

1999 HOUSE EDUCATION

SB 2141

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2141

House Education Committee

Conference Committee

Hearing Date 3-2-99

Tape Number	Side A	Side B	Meter #
Tape #2	x		43.7 to 48.3
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

Chairman R Kelsch , Vice Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep Haas , Rep Johnson , Rep Nelson , Rep Nottestad , Rep L Thoreson , Rep Grumbo , Rep. Hanson , Rep. Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R Kelsch : We will open the hearing on SB 2141 and ask the clerk to read the title.

Pat Seaworth: on behalf of the North Dakota University System and Board of Higher Education, General Counsel. (See attached testimony) . Questions were asked by the committee to clarify points of the bill.

Chairman R Kelsch : Anyone else wishing to appear in support of SB 2141, anyone wishing to appear in opposition of SB 2141. seeing none we will close the hearing on SB 2141.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2141-3-8-99

House Education Committee

Conference Committee

Hearing Date 3-3-99

Tape Number	Side A	Side B	Meter #
Tape # 1		x	16.2 to 30.1
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

Chairman R Kelsch , Vice Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep Haas , Rep Johnson , Rep Nelson , Rep Nottestad , Rep L Thoreson m Rep Grumbo , Rep. Hanson , Rep. Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R Kelsch : We will take up SB 2141, what are the wishes of the committee?

Rep. Lundgren : DO NOT PASS

Rep. Mueller : Second.

Chairman R Kelsch : Discussion. We have a DO NOT PASS motion on SB 2141. We will ask the clerk to call the roll. The DO NOT PASS motion fails 6 YES 9 NO 0 Absent. Ask for a motion.

Vice Chair Drovdal : Move a DO PASS.

Rep Brusegaard : Second.

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House Education Committee

Bill/Resolution Number SB 2141-3-8-99

Hearing Date 3-3-99

Chairman R Kelsch : Discussion, we will ask the clerk to read the roll. The DO PASS motion

passes 9 YES 6 NO 0 Absent Floor Assignment Rep Brusegaard .

Date: 3-3-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB-2141

House Education Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sundgren Seconded By Mueller

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson		/	Rep. Dorvan Solberg	✓	
Rep. David Drovdal-Vice Chair		/			
Rep. Michael D. Brandenburg		/			
Rep. Thomas T. Brusegaard		/			
Rep. C. B. Haas		/			
Rep. Dennis E. Johnson		/			
Rep. Jon O. Nelson		✓			
Rep. Darrell D. Nottestad		✓			
Rep. Laurel Thoreson		✓			
Rep. Howard Grumbo	✓				
Rep. Lyle Hanson	✓				
Rep. Deb Lundgren	✓				
Rep. Phillip Mueller	✓				
Rep. Robert E. Nowatzki	✓				

Total (Yes) 6 No 9

Absent /

Floor Assignment _____

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

Date: 3-3-99
Roll Call Vote #: 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB-2141

House Education Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Drovdal Seconded By Brusegaard

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson	✓		Rep. Dorvan Solberg		✓
Rep. David Drovdal-Vice Chair	✓				
Rep. Michael D. Brandenburg	✓				
Rep. Thomas T. Brusegaard	✓				
Rep. C. B. Haas	✓				
Rep. Dennis E. Johnson	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				
Rep. Howard Grumbo		✓			
Rep. Lyle Hanson		✓			
Rep. Deb Lundgren		✓			
Rep. Phillip Mueller		✓			
Rep. Robert E. Nowatzki		✓			

Total (Yes) 9 No 6

Absent 0

Floor Assignment Brusegaard

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

REPORT OF STANDING COMMITTEE (410)
March 3, 1999 1:55 p.m.

Module No: HR-38-3949
Carrier: Brusegaard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2141, as engrossed: **Education Committee (Rep. R. Kelsch, Chairman)** recommends **DO PASS** (9 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2141 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2141



1/12/99

NORTH DAKOTA UNIVERSITY SYSTEM

Testimony of Pat Seaworth, General Counsel
North Dakota University System

SB 2141

Senate Education Committee
January 12, 1999

Chairman Freborg and members of the Senate Education Committee:

SB 2141 provides that certain donor or prospective donor records in possession of state college or university officials are exempt from the open records law. As you know, absent a specific statutory exemption, all records of a public entity in North Dakota are open to the public. Currently, if a college or university employee is in possession of donor records in connection with the employee's official duties, those records are open to the public, regardless of the donor's wishes.

Employees of private foundations organized for that purpose do much fundraising at colleges and universities. Records of private foundations are generally not open to the public (and because that is the case, I have prepared amendments to SB 2141 suggested by the attorney general's office deleting a reference to private foundations in lines 9 and 10). However, foundation employees involved in fundraising frequently communicate with college or university officials. In fact, it is common for college or university officers to also serve as foundation officers.

Occasionally, a donor wishes to remain anonymous. Also, it is sometimes important, in order to not jeopardize fundraising efforts, to avoid premature public disclosure of prospective donor names. Under current law, such disclosure may be avoided only if foundation employees don't disclose that information in correspondence or other documents sent to college or university employees. That is impracticable when the same person serves as an officer of both the college and the foundation. It also makes communication between foundation and college employees very difficult, even though such communication may be necessary in order to respond to prospective donor requests.

SB 2141 addresses these concerns by permitting college and university officials to not disclose certain personal information about donors or prospective donors. The board of higher education requests your favorable consideration of SB 2141.

State Capitol - 600 East Boulevard, Bismarck, North Dakota 58505-0230 - (701) 328-2960
Fax 701.328.2961 - Internet NDUS_office@prairie.nodak.edu

The North Dakota University System is governed by the State Board of Higher Education and consists of: Bismarck State College - Dickinson State University - Mayville State University - Minot State University, Minot and Bottineau Campus - North Dakota State College of Science - North Dakota State University, Fargo - University of North Dakota, Grand Forks, Lake Region and Williston - Valley City State University

PROPOSED AMENDMENTS TO SENATE BILL 2141

Page 1, line 9, remove “private foundation or”

Page 1, line 10, remove “alumni association affiliated with a state college or university
or by a”

Renumber accordingly

January 12, 1999

SENATE EDUCATION COMMITTEE
SB 2141

CHAIRMAN FREBORG AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing today on behalf of The North Dakota Newspaper Association and The North Dakota Broadcasters Association. While we generally oppose all measures seeking greater confidentiality of records, we do make exceptions.

And this is one of the exceptions. We believe there are valid reasons for seeking confidentiality in this instance and we therefore do not oppose **SB 2141**.

If you have any questions, I'll be happy to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.



NORTH DAKOTA UNIVERSITY SYSTEM

Testimony of Pat Seaworth, General Counsel
North Dakota University System
SB 2141

House Education Committee
March 2, 1999

Chairwoman Kelsch and members of the House Education Committee:

SB 2141 provides that certain donor or prospective donor records in possession of state college or university officials are exempt from the open records law. As you know, absent a specific statutory exemption, all records of a public entity in North Dakota are open to the public. Currently, if a college or university employee is in possession of donor records in connection with the employee's official duties, those records are open to the public, regardless of the donor's wishes.

Private foundations organized to support state colleges and universities generate millions of dollars every year that is dedicated to scholarships and other support for those institutions. Records of private foundations are generally not open to the public. However, foundation employees involved in fundraising frequently communicate with college or university officials. College or university officers assist in fundraising efforts and may also serve as foundation officers.

Occasionally, a donor wishes to remain anonymous. Also, it is sometimes helpful to avoid premature public disclosure of prospective donor names. Under current law, such disclosure may be avoided only if foundation employees don't disclose that information in correspondence or other documents sent to college or university employees. That is not practical when the same person serves as an officer of both the college and the foundation. It also hinders communication between foundation and college employees when a donor or prospective donor wishes to remain anonymous.

SB 2141 addresses these concerns by permitting college and university officials to not disclose certain personal information about donors or prospective donors. This amendment does ^{not} inhibit public access to any institution fiscal records or other "public" information. All records relating to funds received by colleges and universities, including funds received from private sources, remain open to the public. The only information that will not be open is the name and other personal information concerning a donor, if the donor wishes to remain anonymous, or information concerning a prospective donor. The board of higher education requests your favorable consideration of SB 2141.

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