

SENATOR DeCAMP: Well, there has been litigation as you probably know as to whether something is or is not a religion, and as I say, the Supreme Court has put us in the position of saying, by golly, they are going to be pretty careful in saying just who is or defining the limits. If a controversy actually arose, I am sure if the Board of Education felt that it wasn't a "church or religious denomination", they would challenge it and that issue probably would be litigated and settled as we settle it now. I don't see it as being a big threat or problem.

SENATOR FOWLER: What mechanism would the Board of Education have, right now, I mean, as this is written, you give notice that you want to waive or that you will have a waiver, how can that waiver be denied? How could the State Board of Education keep a school from being opened if in fact they do not think it is a sincere religious denomination? Where is the mechanism in this bill or state law to do that?

SENATOR DeCAMP: They would deny it on the grounds, I would assume, that it was not a church or religious denomination and that would be challenged and tested.

SENATOR FOWLER: Where is the power for the Board of Education to deny the waiver?

SENATOR DeCAMP: The waiver has to come from a church or religious denomination. That is self-evident, if they challenge whether it came from them, a legitimate, if you would, religion or denomination, you have answered your own question. If you want me to write a law that defines precisely what a religion is, I don't think I have the capability nor does anybody in the body of doing it.

SENATOR FOWLER: Well, I guess I still do not find in the law as it is written where the power is for the State Department of Education to deny the waiver and I think that is the point Senator Chambers was trying to make. It says if the governing board files a notice of the right to exercise a waiver with the State Board of Education, such board shall, if requested in the notice, grant the waiver. Now it seems to me that there should be the opportunity for the State Board to deny the waiver if the first two conditions, that is if they do not exist, and those two conditions were that the church not receive state or federal funds and, second, that in fact the requirements somehow are offensive to the person's religious. To use the analogy that I used this morning, you cannot simply go to your draft board and say it is abhorrent to my religion that I be drafted and serve in