

1999 HOUSE EDUCATION
HB 1035

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1035

House Education Committee

Conference Committee

Hearing Date 1-12-99

Tape Number	Side A	Side B	Meter #
#1	x		0.0 to 14.8
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

CHAIRMAN KELSCH: Open the hearing on HB 1035 and ask the clerk to read the title. Its been moved and seconded when we have long title, the title is not read. Open the hearing on HB 1035 and ask the Senator Holmberg come forward.

SENATOR HOLMBERG: The bill HB 1035 is a companion bill to HB 1034 . IF HB 1034 is killed then HB 1035 should also die. This bill make changes in the code in references to that new bill. You may want to consider waiting to take this bill up after HB 1034.

CHAIRMAN KELSCH : Are there any questions for Senator Holmberg? Anyone else who wishes to testify in support of HB 1035? Any one who wishes to testify in opposition of HB 1035? CLOSE the hearing on HB 1035.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1035

House Education Committee

Conference Committee

Hearing Date 2-8-99

Tape Number	Side A	Side B	Meter #
Tape # 2		x	4.2 to 7.0
Committee Clerk Signature <i>Jean Diers</i>			

Minutes:

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

Chairman R. Kelsch : We will take up HB 1035. What are the wishes of the committee?

Rep Brusegaard :I move a DO PASS.

Rep Brandenburg : Second

Chairman R. Kelsch : Discussion, seeing none the clerk will call the roll on a DO PASS motion.

The DO PASS motion passes 13 YES 0 NO 2 Absent Floor assignment Chairman R. Kelsch .

Date: 2-8-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1035

House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Brusegaard Seconded By Brandenburg

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) 13 No 0

Absent 2

Floor Assignment Chr Kelsch

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

REPORT OF STANDING COMMITTEE (410)
February 12, 1999 7:58 a.m.

Module No: HR-29-2646
Carrier: R. Kelsch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1035: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1035 was placed on the
Eleventh order on the calendar.

1999 SENATE EDUCATION

HB 1035

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1035

Senate Education Committee

Conference Committee

Hearing Date March 9, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-2110
3/16/99 1	x		3401-3962
Committee Clerk Signature <i>Jincla Christman</i>			

Minutes:

SENATOR FREBORG opened the hearing on HB1035. All senators were present.

ANITA THOMAS, LEGISLATIVE COUNCIL explained and walked the committee through each change in engrossed HB1035. No written testimony on this technical correction bill.

SENATOR KELSH : We just changed section numbers, they are still all in Title 15. Why weren't these addressed in HB1034. Why do we have to change section numbers in so many places. I can understand section 5 of the bill because that was under a different area. But all of these others.

Anita: If HB1034 passes, the section starting with 15 something, will not exist anymore.

HB1034 and the way that these sections were rewritten will reflect those sections. So if we don't renumber them to reconcile them with 16.1, you are going to have a variety, you are going to

have 12 sections with section references literally to repeal sections. The law that they are referencing in here is going to be in 15.1.

SENATOR REDLIN : We have repealed so much stuff we have to rename it over here.

Anita: Once we finished the chapter and repealed the chapter from title 15 it is now a new chapter entitled 15.1.

SENATOR FREBORG : Would we repeal it in 1034. Would all these in Chapter 15 be in 15.1.

SENATOR WANZEK : We want to be fairly sure that 1034 is going to pass before we pass this right.

Anita: It probably would help if 1034 was scheduled for toward the end of the session.

SENATOR REDLIN : On 20-22 page 5, "a cooperative arrangement pursuing the chapters", you mentioned something about that this has not been used. What do we have in place of it then. There has been a lot of cooperation going on.

Anita: A number of years ago, and I think it started with 1989, we had a pairing and sharing arrangement, and what it was, was the largest school district would be paid for providing some educational services to a smaller school district. This was part of the discussion about consortia. School districts could cooperate and eventually join. But it has been a number of years now since we have gone to that, but my recollection, and perhaps SENATOR KELSH would be better, or SENATOR FREBORG , in visiting with you about that. There wasn't as much success with the consortium plans as had been hoped and eventually the money dried up.

Testimony in Favor: Bev Nielson, North Dakota School Board Association: I just have a comment on section 5, page 3, I understand that this language was just moved intact and not discussed. But if in fact we are cleaning up codes, it would be our suggestion that this whole

section could be deleted. Because the open rule laws now give school boards the authority to meet in executive session for negotiation strategy. And you will notice on line 6 where they refer to "if an impasse has been declared and final resolution is in effect," you don't pass final resolution system in North Dakota. I think keeping this language confuses the open meetings law in holding boards to believe that in the case of impasse they have to handle their negotiation strategy sessions differently than the open meeting laws allow us to do now. I think the Attorney General's office concurs that this section because of the open meeting laws is no longer necessary and frankly I think it confuses the issue. Even though this is a technical bill if in fact we are cleaning up the code it would be our recommendation that it be deleted.

SENATOR FREBORG : Did you say we don't have final resolution in North Dakota.

Bev: Well the system is the kind of resolution offers where you take this one and you take one or the other. We have a system in North Dakota where you go to impasse and you then have mediation and you can come up anywhere in between. This is the final act of resolution technique in the book where you each make a final offer and go into arbitration and they pick this one or that one. Technically, that isn't what we have. But the fact that they say you can have executive session prior to submitting the final offer is kind of in conflict with what the open meeting laws grant for us now which is allowing us to have executive sessions for negotiation strategies. It doesn't limit it to one. If we are cleaning up, it would be our suggestion that this section is no longer necessary and actually sort of confuses boards as to what their rights are as far as executive sessions go in relation to negotiation strategy.

SENATOR REDLIN : I seem to recall in the history of this thing that there was talk that while the teachers could meet in secret, why can't the board do the same thing. I remember the argument.

Bev: I think one reason when the open meeting law was passed last session or sessions ago, before that there was a provision made for school boards to have executive sessions for their negotiation strategy. So they do have that authority now, and that authority makes this section obsolete or unnecessary. It seems to actually limit that authority in regard the impasse offer.

SENATOR REDLIN: Will the council reference that for us so we know.

SENATOR FREBORG : We certainly will have that done before we act on the bill.

SENATOR WANZEK : If I'm understanding you right, you are saying that the open meetings law has in effect forced school boards to have a closed door meeting when they are discussing teacher negotiations and that's not limited, where this one says it is limited to one session and you are thinking that creates some ambiguity.

Bev: Yes, it specifically says one executive session prior to submitting this offer which I guess would be your final offer, but the law allows us to have those negotiations strategy meetings ongoing during the entire process of negotiations. So besides being redundant I think it may actually be in conflict. The attorney general's office may be able to give more technical information.

Testimony in Favor: Joe Westby: I will reference section five as well. Section 5 got into the statute following the passage of final offer resolution, I believe it was in 1991 or 1993, I am not sure. And it was put in here by the School Board Association. If they don't feel any need for it

anymore, I guess I would concur that it is probably unnecessary language at this point and could be removed.

SENATOR REDLIN : That phrase "final offer resolution" is that what we often refer to as binding arbitration.

Joe: Yes and that was passed, as I said in '91 or '93 and it was referred to a vote of the people and it failed to carry by 1,800 votes.

SENATOR REDLIN : Why is it still in here if it was outlawed.

Joe: It was put in a different section of the code. It was not a part of the legislation that passed at that time, it was a separate bill that came in later, or got in by amendment or something, but anyway it was put in after the original bill and in a different section of code. So I believe it is in this bill simply as Anita said, to move it from one section of code to the other and probably isn't needed any more.

Testimony in Favor: Bob Lein, Assistant Attorney General. Bev said she thought the Attorney General's office had taken a position on this, however contrary to that, I know of no position taken by the Attorney General on this subject, or the office. I am here only for information purposes. Mr. Westby is right, in 1991 final offer resolution was passed and that was HB1593 in 1991. It was referred to a vote of the people and lost by I don't remember how much in the election of 1992. But in the same 1991 session there was a senate bill that was introduced as a delayed bill and coincidentally instead of 1593, I believe it was 2593, the number set to be the first one and it was placed in the school boards authority section with a long list of policy duties of the school boards. So when the final offer resolution bill itself was defeated at the polls this later enacted the bill. The Senate bill continued in the powers of the school, so it refers to

something called final offer resolution which isn't actually dealt with anywhere else in the Century Code. That's the only place at least if I can rely on the computer for this term "final offer resolution" is used in Century Code. So it refers to a process or procedure which never really came into being, the final offer resolution had to do with an impasse and each side, the teachers and the board having their last best offer submitted. There was no combination and forming of a compromise resolution. And either one side or the other had the last word. Then that became binding on the parties as I say. The most important thing I think is to deal with the term in the statute as final offer resolution which doesn't exist. I'm not much of an expert on the opens meeting law, it was passed in great modifications to overpass in 1997. It does deal with negotiating statutes, it covers the same area although I'm not sure it covers the same area, but not sure it covers it precisely as this section. Maybe before you close the books on 1035 you might want to get some comparisons between how the newly enacted opening law sections compares to this older one.

SENATOR KELSH : In 1034 every section is a new section 15.1 instead of 15 but now when we move this it is repealed in this bill that it goes into full section 15 and in a lot of cases in 1035 it doesn't go into 15.1 I'm confused.

Anita: One of the things that happened in the interim is that we found we had an awful lot more work than we had interim. The way we handled 1034 was to go through so we could realistically handle these chapters, we reviewed them, we worked on them, we know what is there. The second half of the bill we're much less competent with. Basically what happened there, I did a first draft and it was just too much for an interim committee to look at, so the committee made a decision that we would go with half of it. We also have half of the sections and title that we

didn't get to this year. They have been reserved and some of the sections that you have reference here including 15-38.1. It includes the teacher negotiations and teacher salaries, home school all of these need to be addressed in round 2. So at least for the next two years if everything happens we are going to have half of our education code in title 15 and half of the code title 15.1.

SENATOR FREBORG : Why wasn't 1035 in 1034.

Anita: It was a decision made in our office. If we had put this material into 1034 we would have ended up underlining all the new material in 1035. It was easier to split the bills up.

SENATOR FREBORG : I assume you will do a little research and sometime in the next day or two gives us your best recommendation as to what to do with section 5.

Anita: Yes, I will.

SENATOR WANZEK : Could you tell us again what section did we repeal that resulted in Section 5. What was the number again.

Anita: 15-2908 subsection 27.

SENATOR KELSH : The easiest way to explain this is this was in a section that was brought into the 15.1 title, but it was in the wrong area so it is now being put in the right area.

Anita: Correct.

Closed the hearing on HB1035.

3/16/99

SENATOR FREBORG opened discussion on HB1035.

ANITA THOMAS, LEGISLATIVE COUNCIL addressed the committee and explained the amendment for HB1035. The information you received was accurate.

SENATOR WANZEK : What do we have to address in an impasse.

ANITA: I would feel better if the people who actually dealt with negotiations addressed that.

Testimony in Favor: Bev Nielson, North Dakota School Board Association. The language in the section that we are looking at dealt with final offer resolution which we don't have anymore. We do have impasse. The open meeting law currently allows school districts to meet in executive session to deal with their negotiation teams, salaries, etc.

SENATOR COOK : I move we adopt amendment 90229.0201.

SENATOR WANZEK : 2nd

Vote: 7 Yes 0 No

SENATOR COOK : I move a DO PASS as amended.

SENATOR WANZEK : 2nd

Vote: 7 Yes 0 No

CARRIER: SENATOR O'CONNELL

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1035

Page 1, line 1, remove "create and enact a new section to chapter 15-38.1 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to teacher negotiations; and to"

Page 3, remove lines 3 through 16

Renumber accordingly

Date: 3/16/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1035

Senate EDUCATION Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Move adopt amendment 90229.0201

Motion Made By Cook Seconded By Wanzek

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: 3/16/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1035

Senate EDUCATION Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Moves Do Pass as amended

Motion Made By Cook Seconded By Wanzek

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 O'Connell

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

REPORT OF STANDING COMMITTEE

HB 1035: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1035 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 15-38.1 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to teacher negotiations; and to"

Page 3, remove lines 3 through 16

Renumber accordingly

1999 HOUSE EDUCATION

HB 1035

CONFERENCE COMMITTEE

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1035-Conf Comm

House Education Committee

Conference Committee

Hearing Date 4-5-99

Tape Number	Side A	Side B	Meter #
Tape # 3	x		0.1 to 3.4
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

Rep Johnson, Rep Haas, Rep. Nowatzki, Sen. Cook, Sen Flakoll, Sen O'Connell.

Rep Johnson : Opened the conference committee as chairman. Asked the clerk to call the roll.

Sen Cook: I would refer to the Senate Committee minutes on page five, under testimony of Joe: referring to a statement made by Anita Thomas, the reason for the amendment.

Rep. Nowatzki : Asked for the reference again to check on why the amendments.

Sen O'Connell: Moved that the House Accede to the Senate amendments.

Rep Haas : seconded the motion.

Chairman Johnson: Called for a roll call vote. The clerk called the roll, the motion passed with 6

YES 0 NO 0 Absent. The conference committee was adjourned.

Date: 4/5/99

Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL ~~VOTES~~
BILL/RESOLUTION NO. 1035

House Education Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken House Accede to Senate Amendments

Motion Made By Sen. O'Connell Seconded By Rep Haas

Representatives	Yes	No	Senator	Yes	No
Rep Johnson	P		Sen Cook	P	
Nowatzki	P		Sen Mahall	P	
" Haas	P		Sen O'Connell	P	

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 4/5/99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1035

House Education Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Senator	Yes	No
Rep D Johnson	✓		Sen Cook	✓	
Rep Haas	✓		Sen Blakoll	✓	
Rep Nowalzki	✓		Sen O'Connell	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Rep Johnson

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

(Bill Number) HB-1035 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Sen Cook
Sen Flakoll
Sen O'Connell

For the House:

Rep D Johnson
Rep Haas
Rep Nowatzki

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 5724/H726 5723/H725

the (Senate/House) amendments on (SJ/HJ) page(s) 990 - _____

and place HB1035 on the Seventh order.
727

, adopt (further) amendments as follows, and place
_____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) _____ was placed on the Seventh order of business on the
calendar.

DATE: 4, 5, 99
CARRIER: Rep D Johnson
LC NO. _____ of amendment
LC NO. _____ of engrossment
Emergency clause added or deleted _____
Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

HB 1035: Your conference committee (Sens. Cook, Flakoll, O'Connell and Reps. D. Johnson, Haas, Nowatzki) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 990 and place HB 1035 on the Seventh order.