

1999 HOUSE EDUCATION

HB 1239

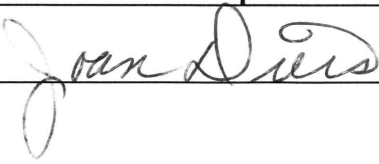
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1239

House Education Committee

Conference Committee

Hearing Date 1-27-99

Tape Number	Side A	Side B	Meter #
#1		x	1.0 to 27.6
Committee Clerk Signature 			

Minutes:

Those present: 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 HB 1239 and ask the clerk to read the title.

Rep Byerly: sponsor of the bill. District 1. The bill grew out as a result some questions that I asked of Legislative Council after the enactment of the finger print bill. A follow up on what they were finding out about the finger printing was concerned. Mrs. Thomas did up a letter to the Education Standards and Practices Board, asking what were the most common things that they were finding out. We got back a list that included nsf checks, DUI, disorderly conduct, gross sexual imposition, concealed weapons, controlled substances, contributing to the delinquency of

a minor, terrorizing, false identification, armed robbery, leaving the scene of a crime,. We decided to take this approach to the problem.

Rep Grande: sponsor of HB 1239. District 41. I am here to stand in favor of this legislation. On page three section three line twelve, a provision to get their certificate reinstated .

Rep. Grumbo : The question I have, you have referred to. section 3. If the conviction was overturned does that fall under this section?

Grande: Yes, but the key word here is may. They don't have to reinstate.

Rep. L. Thoreson : On the same issue, during the course of appeal, would that certificate be revoked in the interim?

Grande: I believe, in section three of page one, they are talking about it is revoked until the over turn.

Rep. Nottestad : What chance do you think that someone would have to be reinstated.

Grande: I'm not on that board, I'm not sure how they would handle that.

Rep. Nottestad : If that person should win on appeal, they still would not have to allow them to come back to that teaching position?

Grande: Yes.

Rep. Nelson : My position is that teaching contract is a continuing contract and being the appeal and the conviction was over turned. That teacher would be subject to the continuing contract portion of the law.

Chairman R. Kelsch : My guess is if it is an appeal on a technicality, they would have the option at that point to say no we will not give them back their certificate.

Janet Placek: Executive Director of the Education Standards and Practices Board, I appear in opposition of HB 1239. (see written attached).

Vice-Chair Drovdal : The board does not have the legal ability to take the license of a teacher who is a convicted felon.

Placek: Chapter 28-32 of the North Dakota Century Code, we go through an administrative law hearing, and the process is outlined in that section what we go through.

Rep. Nelson : Has the board ever granted a certificate to a teacher that has a class C felony or greater conviction?

Placek: Yes. The conviction was in 1979 and had no other violations, so we considered that case rehabilitated.

Rep. Nelson : Would you agree, that five years with no conviction, that would be a period of which someone was rehabilitated.

Placek: That is a state law. The second part of that is if it does not affect the occupation.

Rep. L. Thoreson : Does the school board have access to those records?

Placek: Yes, the exception would be the FBI documents. The documents from the court are open to the public.

Vice-Chair Drovdal : Can the review of a teachers license be triggered by a PTO group or a parent?

Placek: Yes.

Rep. Solberg : The statement that the Education Standard and Practices Board would not put the children at risk by issuing a certificate to someone who is unsafe. You would like to provide due process and review. How much of a window is this due process, how many days?

Placek: The process takes, depending how long it takes the court documents to get to us, it is then put on the calendar for the next month.

Rep. Solberg : So this could be a lengthy process?

Placek: Does take time, about six weeks.

Chairman R. Kelsch : During the process, can you suspend the teaching certificate, and take them out of the classroom?

Placek: Depending upon what the offense would be, and we are talking only about new applicants who go through this finger printing. The teachers currently teaching, no .

Chairman R. Kelsch : However we have had in the past few months, we've had teachers, principals, what do we do in that situation?

Placek: They are immediately removed. We are assured that they are not teaching.

Rep. Haas : The conviction is not removed, even if the conviction is overturned?

Placek: Exactly

Rep Brandenburg : If a person is convicted of involuntary manslaughter, how is that handled?

Placek: They are removed from the class room, the licensed would be asked for, that person does not have to give it back, once the court has decided that the person is guilty, we then go through the process of having them give it up voluntary. If they don't they then go through, the hearing process.

Helen Busch: NDEA I think there has to be some consideration for rehabilitation, extenuation circumstances. We believe that the Standards has a process in place to safe guard our children from felons. I would urge a DO NOT PASS on this bill.

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House Education Committee

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Chairman R. Kelsch : Anyone else wishing to appear in opposition of HB 1239. Hearing none,
we will close the hearing on HB 1239.

COMMITTEE ACTION ON HB 1239

Motion by Rep Brusegaard for a DO NOT PASS

Seconded by Rep Haas

Vote 15 Yes 0 No 0 Absent Floor Assignment Rep Nelson

Date: 1-27-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1239

House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Brusegaard Seconded By Haas

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) 15 No 0

Absent 0

Floor Assignment Rep Nelson

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

REPORT OF STANDING COMMITTEE (410)
February 3, 1999 5:52 p.m.

Module No: HR-22-1831
Carrier: Nelson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1239: Education Committee (Rep. R. Kelsch, Chairman) recommends DO NOT PASS
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1239 was placed on the
Eleventh order on the calendar.

1999 TESTIMONY

HB 1239



Education Standards and Practices Board
600 East Boulevard Avenue
Bismarck, ND 58505-0080
(701) 328-2264 Fax #328-2815

TESTIMONY OF JANET L. PLACEK
ON
HOUSE BILL 1239

M. Chairman and member of the committee, I am Janet L. Placek, Executive Director for the Education Standards and Practices Board and would like to speak in opposition of HB 1239.

The Education Standards and Practices Board appointed by the Governor consists of four classroom teachers from public schools, one classroom teacher from a private school, one school board member, two school administrators, and one dean of a college of education. This board has the authority to regulate the certification of our teachers in North Dakota and takes this responsibility very seriously and works very hard to maintain professional qualified teachers for every classroom in North Dakota.

House Bill 1239 would drastically prohibit this board from providing due process for all teachers in North Dakota. If a background check indicates the applicant has committed an offense, the board reviews the police records, court documents, and all other evidence plus statements from all concerned parties. A very important

consideration that is also taken into account is the type of offense committed and the time lapse since the offense was committed. Each case is reviewed very thoroughly by the board before any recommendation is made with regard to certification.

NDCC 12.1-33-02.1 provides that a person may not be disqualified to practice, pursue, or engage in any occupation, trade, or profession for which a license, permit, certificate, or registration is required from any state agency, board, commission, or department solely because of prior conviction of an offense. However, a person may be denied a license, permit, certificate, or registration because of prior conviction of an offense if it is determined that such person has not been sufficiently rehabilitated, or that the offense has a direct bearing upon a person's ability to serve the public in the specific occupation, trade or profession. Part 2 of this statute provides information as to what each board is to consider in determining sufficient rehabilitation.

An example of how this bill would negatively affect educators in North Dakota is the fact that writing of certain NSF checks is a Class C felony. We have educators in North Dakota who own businesses and have written NSF checks. This does not affect the ability of the applicant to serve our students in North Dakota but the ESPB would not be able to make that determination if this bill is passed.

Another example of how this bill would affect some educators in North Dakota is the possession of marijuana which is a Class C Felony if over one ounce. We have received applications from teachers who in 1972 were convicted of this crime. These teachers are now 47 – 50 years old, have graduated from college, had no offenses on their record since and are now applying for a certificate. Should they have to pay for this one youthful act for the rest of their lives?

The Education Standards and Practices Board would never put the children of North Dakota at risk by providing a certificate to someone who has proven to be unsafe but would like the opportunity to be able to provide due process and review the past criminal histories of our educators on a case by case basis. HB 1239 will not provide our educators with this due process.

The system has been put in place to safeguard our children in North Dakota with the BCI, FBI background check, the ESPB reviewing each case and providing due process for all of our teachers as well as NDCC 12.1-33-02.1 which provides authority for rehabilitation if warranted.

I would entertain any questions at this time. Thank you for the consideration given this testimony.

If further information is needed, I can be reached at 328-1659.