

1999 HOUSE EDUCATION

HB 1370

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1370

House Education Committee

Conference Committee

Hearing Date 2-8-99

Tape Number	Side A	Side B	Meter #
Tape # 1		x	32.0 to end
Tape # 2	x		0.1 to 5.3
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 HB 1370 and ask the clerk to read the title.

Rep. Nottestad : sponsor of the bill District 43. This bill deals with the issue of teachers letting
their certificate expire during the year.

DeAnn Boschel: Principal at Cavalier, ND spoke in support of HB 1370. Believes there should
be a monetary reprimand.

Rep. Nottestad : That penalty will be set taken care of. It will be set by rule.

Janet Placek: Executive Director of the ND Standards and Practices Board. The board purposes
the amendments attached to the testimony and asks for support of the bill.(see written attached.)

Rep. Nelson : The school district has to make this work, in the event that someone is not in compliance, wouldn't it be better to have the fine to go back to the school districts instead of the board?

Placek: It is the intent of the board that the teacher would stay in the class room, there would be financial problem to the school district.

Rep. Hanson : How many full time teachers have their certificates expire during the year?

Placek: Last week I had three

End to tape 1 side B

Begin tape 2 side A

Rep. Hanson : Aren't contracts checked prior to beginning of the school year?

Placek: If a student doesn't apply right away for certification until October.

Rep. Haas : If a teachers certificate expires the end of October and they have to have a class to get it renewed, would you waive their certificate requirement for the balance of the school year?

Placek: We already have a certificate in place for those teachers who have not taken their re-education hours. That is called a two year probationary.

Rep. Haas : If I am teaching and my certificate expires, you just turn around and give me a probationary certificate?

Placek: If you have been on a five year certificate, and have not taken your four hours of re-education, so you are not qualified for another five year. You are dropped down to a two year probationary certificate. Then you have to pick up additional hours.

Rep. Nowatzki : On your proposed amendments, the word may--should that word be shall?

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House Education Committee

Bill/Resolution Number Hb 1370

Hearing Date 2-8-99

Placek: We discussed this with the Assistant Attorney General who drafted the amendments and it was thought to leave it that way so it was open to the board on a case by case.

Rep. Nowatzki : If we legislate it, the board can consider almost anything?

Placek: Correct

Joe Westby: Executive Director of NDEA, spoke in support of HB 1370.

Chairman R. Kelsch : Anyone wishing to speak in opposition of HB 1370? Hearing none we will close the hearing of HB 1370.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1370-2-9-99

House Education Committee

Conference Committee

Hearing Date 2-9-99

Tape Number	Side A	Side B	Meter #
1	x		31.1--52.6
Committee Clerk Signature <i>Joan Diess</i>			

Minutes: Chairman R. Kelsch : Let's take up HB 1370.

Rep. Nottestad : I talked to Ms. Placek about the amendments, particularly about omitting lines 20-24. She said by removing the repeal on the back, and putting that back in. I move the amendment that Ms. Placek brought in, to the bill. Rep. Nottestad seconded the motion.

Rep. Mueller : That also includes lines 13-17.

Rep. Nottestad : Yes. By removing the repeal it leaves the old law in place.

Rep. Nowatzki : If we adopt Ms. Placek's amendments, if you look at her testimony, she uses the word "may". There is flexibility. Is this the right word, or should it be "shall"?

Rep. Nottestad : From what I've seen in the rules, it is common terminology.

VOICE VOTE on amendments with all YES. Motion carried.

Chairman R. Kelsch : What does committee wish. Rep. L. Thoreson made a motion to DO PASS AS AMENDED and Rep Brusegaard seconded the motion.

Rep. Hanson : I have a real problem with this. I think we are making an exception here and we're saying to teachers they don't have to be responsible for your own personal affairs. You don't have to make sure your certificates is valid. I don't think that is right. They need to assume responsibility. I object to this on that basis.

Rep. Nottestad : If I were only concerned with the big cities, I would agree with you in theory. We need this for the small communities. The purpose of the bill is not to forgive mistakes, but to be sure the children are taught by someone who has a degree in that subject.

Rep. Haas : I also don't like the idea of setting this up so that the Standards and Practices Board can set up a fine schedule for teachers. Doesn't set well.

Rep. L. Thoreson : I think there is some merit to this. I think there are situations where, what Rep. Nottestad talked about, will occur. We need something in statute. This gives the school a tool to deal with the problem. I think this is a different situation than a relator who doesn't renew his license.

Rep Brandenburg : When notices are sent out, how long do they to get back.

Rep. Haas : It would depend on what they haven't done. If they let things slide, they have to get so many hours in a five year period to renew their certificates, they can get a probationary certificate. The law now provides if a teachers certificate expires within the last six weeks of the term, they can continue to teach. I just don't think this bill is necessary. It says to teachers we will spoon feed and baby you.

Rep. Nottestad : I would like to think the bill is not needed either, but I think a \$50.00/day penalty is not babying a teacher. I don't think there will be too many certificates not being renewed within a day or two, once they see the fine is levied against them.

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House Education Committee ¹³⁷⁰

Bill/Resolution Number HB ~~1034~~-2-2-99

Hearing Date 2-9-99

Rep. Nottestad : How often does this happen per year in the state?

Chairman R. Kelsch : Not a lot of times, two or three Ms. Placek said. We have a DO PASS

AS AMENDED before us.

ROLL CALL VOTE: 8 YES and 7 NO with 0 ABSENT. Passed. Rep. L. Thoreson will carry the bill.

VR
2/11/99

HOUSE AMENDMENTS TO HOUSE BILL NO. 1370 Edu 2-11-99

Page 1, line 2, after the semicolon insert "and"

Page 1, line 4, replace "; and to repeal section 15-36-11 of the North Dakota" with a period

Page 1, remove line 5

Page 1, line 10, remove "1."

Page 1, remove lines 13 through 17

Page 1, replace lines 20 through 24 with:

"Exception to certificate requirement. An individual without a valid certificate who is teaching under contract with a school may teach and be employed to teach if approved by the education standards and practices board. The education standards and practices board shall establish by rule the terms and conditions of approval. The terms and conditions may include payment of fines to the board, enrollment in and completion of continuing education courses, and a deadline for filing a completed application. Approval to teach and be employed to teach without a valid North Dakota certificate may only be granted if the individual has previously held a valid North Dakota certificate, currently holds a valid teaching certificate or license in another jurisdiction, or has filed a completed application with the board."

Page 2, remove lines 1 and 2

Renumber accordingly

Date: 2-9-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1370

House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 90640.0101 title .0200

Action Taken Do Pass as Amended

Motion Made By Thoreson 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) 8 No 7

Absent 0

Floor Assignment Thoreson

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

REPORT OF STANDING COMMITTEE

HB 1370: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (8 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). HB 1370 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "and"

Page 1, line 4, replace "; and to repeal section 15-36-11 of the North Dakota" with a period

Page 1, remove line 5

Page 1, line 10, remove "1."

Page 1, remove lines 13 through 17

Page 1, replace lines 20 through 24 with:

"Exception to certificate requirement. An individual without a valid certificate who is teaching under contract with a school may teach and be employed to teach if approved by the education standards and practices board. The education standards and practices board shall establish by rule the terms and conditions of approval. The terms and conditions may include payment of fines to the board, enrollment in and completion of continuing education courses, and a deadline for filing a completed application. Approval to teach and be employed to teach without a valid North Dakota certificate may only be granted if the individual has previously held a valid North Dakota certificate, currently holds a valid teaching certificate or license in another jurisdiction, or has filed a completed application with the board."

Page 2, remove lines 1 and 2

Renumber accordingly

1999 SENATE EDUCATION

HB 1370

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1370

Senate Education Committee

Conference Committee

Hearing Date March 15, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-2492
Committee Clerk Signature <i>Linda Christman</i>			

Minutes:

SENATOR FREBORG called the Senate Education Committee to order and opened the hearing on HB1370. SENATOR WANZEK was absent..

REPRESENTATIVE NOTTESTAD, DISTRICT 43, introduced HB1370. I appear before you with this bill 1370, it is a bill that in my estimation would add continuity between teachers and pupil and have the continuum contact not be broken. That is the entire purpose of the bill.

Something that we need especially in the smaller schools where you cannot find substitute teachers. There are no excuses for certificates not to be renewed but when it does happen and someone forgets, the one that is hurt the most by it are the students.

Testimony in Favor: Janet Placek, Executive Director of Education Standards and Practices Board. Written testimony attached. The Board asks for your support on HB1370.

SENATOR FREBORG : What kinds of fines might we be looking at.

Janet: We have been talking to NDEA and we are looking at anywhere from \$25 a day, \$50 a day, to a maximum of \$500 or a \$1,000. Presently if we have instructors that let their license lapse, legally they cannot be paid by the school district. If you have someone that comes in and lets their license lapse for three weeks, we are talking three weeks of salary that that teacher is not being paid. Fines on other boards range from \$190 from the Board of Dental Examiners to \$10 fee for Cosmetology. Our goal is to not break them financially, our goal is to make them aware that we mean business, this is a law that they have to maintain the license. We don't want our students taken advantage of by removing teachers from the classroom and we don't want to have the schools have to pay additional dollars to hire subs to put in the classrooms with these teachers.

SENATOR FREBORG : Evidently at least when this first happened for the first week or two or month we do have teachers teaching with lapsed certificates. Are you sure that they even know its illegal if they are not getting paid.

Janet: I can only take the word of the superintendent and the business manager at this point. There is no way that we go out and check their books and see if that teacher has been paid, possibly after the license has been renewed.

SENATOR REDLIN : What does a person have to go through to be rectified. What does it cost and do they have to prove some kind of professional efficiency. What is involved in being relicensed.

Janet: We send out a three month reminder, we send out their application forms with that reminder. They have to get three signatures on it and get the college to send us their transcript

that shows they have taken, if they are on the five year renewal, 4 graduate hours and attach a fee.

SENATOR REDLIN : What does the fee amount to.

Janet: The fee is \$75 for five years.

SENATOR KELSH : Is there any grace period. I mean if their certificate expires on the 8th of the month do they have the rest of the month or on the 8th is it gone. Is there any way to work with them. What is the situation.

Janet: With this bill we would write into rule the fact that they would have some time to get their papers in order and get the information in. At the present time after they get the three month reminder, at the beginning of the month I call the business manager who is suppose to have a valid certificate in her/his file also. They get no grace period but we have worked with NDEA and the administrators and we are looking at giving them 5 days or something to get their paperwork in.

SENATOR FREBORG : When you send out a three month reminder why on earth do they need five more days. They are supposedly professional people and they've been sent a reminder. Is it that they don't have the hours and can't renew or what is the problem.

Janet: There are varying reasons, some of them just forget. If they don't have the hours we have a probationary certificate that they can fall back into but that is usually not the case. Usually it is just poor time management. We have since August 15th about 25 instructors out of the approximate 4,000 that we renew. We have had about 25 that would fall into this category.

SENATOR COOK : These certificates can expire in any month of the year.

Janet: Depending on when they originally issued. Example: If issued on Oct. 6 then it would expire on Oct. 6 five years later.

SENATOR COOK : Every teacher then when they sign the renewal contract with a particular school, they know whether that teacher's certificate is going to expire within the next year.

Janet: That is correct. DPI also sends out a notice in December to each administrator that also has a list of every teacher and the expiration date of their license on that list.

SENATOR COOK : For the following year.

Janet: Yes.

SENATOR COOK : How soon in advance can they renew their teacher's certificate.

Janet: Six months.

Testimony in Favor: Max Laird, President of NDEA. Two issues I'd like to address relative to this piece of legislation although I am speaking in favor of it. I believe as a classroom teacher and colleague we all have a responsibility to respond to our requirements relative to renewal and rectification issues. I would also argue that there are situations where the fault can fall in a number of places, business managers failure to notify, people who have moved or changed addresses, etc., but I do believe we do have a responsibility to respond. I do believe we have a responsibility to be held accountable. By virtue of present statute we are in a bit of a catch 22, where a situation can in fact has occurred in the past where a teacher for whatever reason fails to renew. The process that is presently used has two results both of which I find disconcerting. The first is at some point that classroom teacher will in fact be removed from the classroom and a substitute will be placed in the classroom when in reality that teacher probably has either enough credits or by virtue of statute will be issued a two year probationary certificate that does in fact

require 8 credits. Normally you'd get 4 credits every 5 years but if you fail to renew in a timely manner you will be issued a probationary certificate that over the next two years you will be required to get 8 credits. If I fail to renew I will still be issued a certificate if I don't have enough credits but it will require I receive double number of credits to retain my certificate and go back on the 5 year cycle. So I am never in actuality ineligible for renewal. Second concern, if I had been in the classroom uncertified for a period of time present practice because of law, say my certificate expires today and 10 days from now the paperwork goes in, ESPB today will argue that the 10 day period of time in which I did not have my certificate is my fine period. Because I may have been paid or may not have been paid they now by virtue of law suggest that my certificate will not be renewed for another 10 days, that is my punishment. I will lose pay for the period of time that is actually double the amount of time I served in the classroom without a certificate. I believe we need to pay a substantial fine for our irresponsibility and failure to renew, I'm just not sure it should be in the neighborhood of \$1,000 of dollars. This piece of legislation allows the ESPB to establish a substantial and punitive fine process that will hold people accountable.

SENATOR FREBORG : What would you consider a substantial yet reasonable fine.

Max: We have discussed anywhere from \$50 a day to a maximum of \$500, as high as a \$1,000 depending upon circumstances. We're attempting with this legislation to adjust two things: 1. placing of a substitute in a classroom 2. confusing set of statutes in relating to fines.

SENATOR KELSH : This is no way takes away that option of that 2 year certificate that requires the doubling of hours does it.

Max: I'd still be fined. I may be issued a 2 year certificate which then requires me to get 8 credits.

SENATOR COOK : If the teacher was 1 ½ years from retirement at the point where their certificate was going to expire would they probably elect not to pursue the 4 credits during the 5 year period and get a probationary certificate for the last 1 ½ years.

Max: I understand your scenario but not familiar with anyone having exercised that. Almost all people who retire wish to maintain their full certification for the possibility of substitute teaching.

SENATOR COOK : Are you familiar with the 25 cases mentioned here.

Max: Probably most of them , yes.

SENATOR REDLIN : As I understand it, the amendment is the bill and you will leave in the code that an individual must hold a valid certificate.

Max: Correct.

SENATOR REDLIN : The fine would have to be more than the \$75 for recertification.

Max: Yes, the fine would be over and above the \$75.

SENATOR COOK : Mentioned fines and other businesses. Do you know how many fines were established by legislature and how many were established by a board.

Janet: No

SENATOR KELSH : This 25 is out of how many people that have renewed. What percentage.

Janet: We renew between 3,500-4,000 teachers and administrators each year. Haven't completed a full year yet but at the end of February we were at 2,067 or something like that. 25 is a very small percentage.

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Senate Education Committee
Bill/Resolution Number HB1370
Hearing Date March 15, 1999

Close the hearing on HB1370.

SENATOR KELSH : Move a DO PASS on engrossed HB1370.

SENATOR O'CONNELL : 2nd

Vote: 4 Yes 1 No 2 Absent

CARRIER: SENATOR KELSH

Date: 3/15/99
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1370

Senate EDUCATION Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Kelsh Seconded By 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) 4 No 1

Absent _____

Floor Assignment Kelsh

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

REPORT OF STANDING COMMITTEE (410)
March 15, 1999 3:53 p.m.

Module No: SR-46-4828
Carrier: Kelsh
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1370, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (4 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Engrossed HB 1370 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1370

Testimony of
Janet L. Placek
On
House Bill 1370

M. Chairman, members of the committee, I am Janet L. Placek, Executive Director of the Education Standards and Practices Board. The ESPB proposes the following amendments to this bill and asks for your support.

House Bill 1370 provides the Education Standards and Practices Board an opportunity to maintain qualified teachers for North Dakota students and provides a disciplinary action for those instructors who do not maintain their professional certificates/licenses.

Since 1911, we have had NDCC 15-36-11 providing certified teachers in North Dakota classrooms. Teachers must maintain their certificates or not be employed to teach.

Presently, the ESPB disciplines the instructors who do not maintain their certificates according to NDCC 15-36-11 by either removing them from the classroom or the school must provide a certified teacher to be in the classroom with the uncertified teacher. If the teacher is removed from the classroom, the students are put at an unfair advantage by disrupting the educational process and having a substitute in the classroom. The second solution of putting a certified

substitute in the room with the uncertified teacher puts an unfair financial burden onto the school district.

The Education Standards and Practices Board believes by fining the teacher who does not maintain their certificate is putting the burden of this professional task back onto the person who should be responsible professionally and financially.

The Education Standards and Practices Board asks for the following amendments:

Page 1, Lines 13-17 and Lines 20-24, delete.

Page 1, In place of Lines 20-24 insert the following language:

Exception to certificate requirement. An individual without a valid certificate who is teaching under contract with a school may teach and be employed to teach if approved by the education standards and practices board. The education standards and practices board shall establish by rule the terms and conditions of approval. The terms and conditions may include payment of fines to the board, enrollment in and completion of continuing education courses, and a deadline for filing a completed application. Approval to teach and be employed to teach without a valid North Dakota certificate, may only be granted if the individual has previously held a valid North Dakota certificate, currently holds a valid teaching certificate or license in another jurisdiction, or has filed a completed application with the board.

The second amendment is in Section 3 of this bill, page 2, line 1 and 2 by not repealing Section 15-36-12.

This portion of the law requires the teachers to exhibit their certificates to the business manager of the school district prior to receiving their first pay check. This section provides for local control

and maintenance of qualified teachers and is a very important step in the system of certification.

The assistant attorney general for the Education Standards and Practices Board reviewed the present language in HB 1370 and recommended the above amendments. The new language provides the same outcome but sets in law the process and procedures of the waiver process which was the intent of the Education Standards and Practices Board.

Thank you for the consideration given these amendments. I would be available for any questions at this time. For further information, please contact me at 328-1659 or jplacek@state.nd.us.

Testimony of
Janet L. Placek
On
Engrossed House Bill 1370

M. Chairman, members of the committee, I am Janet L. Placek, Executive Director of the Education Standards and Practices Board. The ESPB asks for your support on Engrossed House Bill 1370.

House Bill 1370 provides the Education Standards and Practices Board an opportunity to maintain qualified teachers for North Dakota students and provides a disciplinary action for those instructors who do not maintain their professional certificates/licenses.

Since 1911, we have had NDCC 15-36-11 providing certified teachers in North Dakota classrooms. Teachers must maintain their certificates or not be employed to teach.

As a courtesy to our educators, the ESPB sends a reminder to each of them listed on the MIS03 form provided to us by DPI, three months prior to their license expiring. The first of each month, we recheck the list and call the business manager to remind them that a specific teacher in their school has not renewed their license. Since August 15, 1998, we have had approximately 25 instructor or administrators who have let their license lapse and have cost their districts additional dollars.

Presently, the ESPB disciplines the instructors who do not maintain their certificates according to NDCC 15-36-11 by either removing them from the classroom or the school must provide a certified teacher to be in the classroom with the uncertified teacher. If the teacher is removed from the classroom, the students are put at an unfair advantage by disrupting the educational process and having a substitute in the classroom. The second solution of putting a certified substitute in the room with the uncertified teacher puts an unfair financial burden onto the school district.

The Education Standards and Practices Board believes by fining the teacher who does not maintain their certificate is putting the burden of this professional task back onto the person who should be responsible professionally and financially.

In September, the ESPB did a survey of professional boards and found that every board does some type of financial discipline as well as removal from the profession until the license has been renewed. In education, our students can not go across the street to find a different teacher if their teacher has not renewed their license as we can do if our realtor has let their license lapse.

Thank you for the consideration given this testimony. I would be available for any questions at this time. For further information, please contact me at 328-1659 or jplacek@state.nd.us.