

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2287

2007 SENATE EDUCATION

SB 2287

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2287

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2818, 2819

Committee Clerk Signature



Minutes:

Chairman Freborg opened the hearing on SB 2287, a bill relating to cause for the suspension or revocation of teaching licenses. All members were present.

Senator Bakke introduced the bill. (Written testimony attached)

Janet Placek Welk, Education and Standards Practices Board, testified in favor of the bill. (Written testimony attached)

Senator Flakoll asked if on page 2 line 2 would "knowingly" permitted be preferred?

Ms. Welk said that has happened.

Senator Flakoll said according to the language, an administrator could be sent down the road even if they were not aware the teacher was teaching outside his field.

Ms. Welk said sending an administrator down the road when they don't know that something like this has happened is not the intent. This bill was drafted with the hope it would provide assistance to both the teacher and the administrator as a back up. Under this bill, a teacher would be able to say he could not teach outside his field, it would be against the law and an administrator would be able to tell a teacher he could not allow it.

Dr. Anita Decker, Director of School Approval and Accreditation for the Department of Public Instruction, testified in favor of the bill. (Written testimony attached)

Senator Taylor asked if any of the 100 teachers teaching out of field qualified for the rural flexibility or teaching alternative flexibility extensions?

Dr. Decker said many of them might have but this has been given to ESPB and apparently not.

Doug Johnson, North Dakota Council of Educational Leaders, testified in opposition to the bill.

He supports ESPB, he served on the board for 9 years. His concern is that when hiring highly qualified teachers for the rural flexibility, if flexibility runs out half way through the next year and they have to hire a teacher, we could end up with a lot of unfilled positions. His

recommendation would be to use an implementation date of July 1, 2008 to allow time for them to get prepared. It puts them at a certain amount of risk and one thing ESPB looks at is if they knowingly hired the teacher. The addition of the word "knowingly" would also be appropriate.

Senator Taylor asked if there is some flexibility in the hearing process at ESPB?

Mr. Johnson said yes, in his experience, the board tried to look at every possible solution.

They support the need to have this in place, they just don't know if the timing is correct. The real concern is in grades 5 – 8, considered the middle school highly qualified, some of those are hard to get, and teachers don't like to get that qualification because it is much more difficult. They have run out of good applicants for the middle school configuration.

Senator Taylor said if he recommends August 1, 2008 activation he would certainly suggest pulling the emergency clause.

Mr. Johnson said absolutely.

Chairman Freborg closed the hearing on SB 2287.

Senator Flakoll said he will be offering an amendment to add "knowingly" permitted to page 2, line 2.

Senator Flakoll moved the amendment to add the word "knowingly" to page 2, line 2, seconded by Senator Taylor.

Senator Bakke said she thinks that clarifies it. When the board discusses these cases they would find out if it was knowingly or not but this gives them some protection and she has no problem with it.

The motion passed 3-2.

Senator Taylor said he has questions regarding the extended date of activation or removal of the emergency clause. He would like to ask Janet Welk a question about it.

Ms. Welk said there are 100 teachers who have not finished the paperwork. If the emergency clause was removed it would mean there would be about 10 – 20 teachers who are actually in the classrooms that would have no ramifications this year. It would also provide an opportunity for teachers next year to be in a classroom when they are not qualified which goes against state law. If there are no ramifications for the teacher, the school could lose foundation aid which would be huge dollars.

Senator Taylor asked if it went into place immediately upon second passage, would the board take action?

Ms. Welk said they would come up at the April or May regular monthly meeting, they would not call a special meeting. They want to give them time to get their paperwork in order.

Senator Taylor said if there was no emergency clause, would you be looking at a fall meeting before any action could be taken?

Ms. Welk said that is correct.

Senator Bakke asked how much time these people have had to get their highly qualified status in order?

Ms. Welk said they have had 4 years.

Senator Flakoll asked if a teacher was found to be in violation, how does that impact the FTE payment to the school district?

Ms. Welk said that is a very good question, Mr. Decker would have to answer it.

Senator Taylor asked for an example of these 10 or 20 teachers, he knows we have rural flexibility.

Ms. Welk said in a non-public school, there was a music teacher who had been teaching there for years with a minor, he knew full well he was out of compliance. In a middle school a teacher was teaching without the 16 or 24 semester hours as required in that specific content area. As we move towards looking at additional courses to graduate from high school, our teachers need to be prepared. Everyone talks about how our students are not capable of 4 years of math. As she told the P16 committee, she takes a little responsibility for that because our elementary teachers have not been required to complete college algebra until 1999. As we move forward with additional coursework for the students, we will have to hold tight to the qualifications of our teachers. It is very important.

Senator Flakoll said if the emergency clause is left in place and this passes in April, what would be the options for the schools with teachers in violation. Do they not offer that class for the remaining month of the year?

Ms. Welk said that is a question for Anita Decker.

Anita Decker, Department of Public Instruction, said many schools call when they have difficulty hiring a teacher because of the content area, shortage of teachers in certain areas and so forth. They work very closely with those schools when asked to help identify possibilities for fulfilling that area. Sometimes they have not looked within their own staff, sometimes there is a teacher down the road who could work with both schools, sometimes distance learning is an option, and the Division of Independent Study would be another option.

Occasionally a school will decide not to offer a course one year and work on filling the position for the next year. There are options for them.

Senator Taylor said No Child Left Behind has had plenty of controversy. What is the biggest problem with August 1, 2007 activation?

Dr. Decker said most teachers are aware of it and for some reason opted not to do it. Maybe they did not want the teaching assignment, maybe they wanted reassignment. Of the schools they have worked with, most have resolved the issue very well.

Senator Bakke asked if the schools have to notify teachers by April 15 if they are going to have a contract for the next year?

Dr. Decker said she believes that is correct. Most teachers qualify for something. Even if a district were to offer a contract, they may have to reassign the teacher. Some districts put qualifications in their contract.

Senator Bakke said most people are struggling with the emergency clause, that there could be one month with no teacher at the end of the year. She understands that, she would not want her child in a school where in April, there was no teacher.

Senator Flakoll moved an amendment to overstrike the entire line on page 2, line 7 to remove the emergency clause and add an effective date of August 1, 2007, seconded by Senator Taylor.

The motion passed 5-0.

Senator Flakoll moved a Do Pass As Amended, seconded by Senator Bakke.

The motion passed 5-0-0. Senator Bakke will carry the bill.

Senator Bakke said she would like to reconsider the action of the committee. It has been pointed out to her that a teacher could come from out of state and not realize they were not qualified to teach in a certain area and by adding the word "knowingly" for the teachers this would provide protection for them as well.

Chairman Freborg said he doesn't really agree with what we did. There was no useful purpose in voting no. We have laws right now and we heard testimony that said we ought to stick to them. These are educated people, don't they know they don't qualify. And don't the administrators know they don't qualify? If they don't they shouldn't be administrators. We are going to do something they can do right now all by themselves.

Senator Bakke moved to reconsider the actions by which we passed out SB 2287, seconded by Senator Taylor.

Senator Bakke said it is equitable, if we put knowingly for the administrators, we should do it for the teachers too.

Chairman Freborg said he is not sure it is necessary. If we hook the administrators with that responsibility, they should know. Maybe we should make a real stiff penalty for the administrators whether the teachers know if they are qualified or not.

The motion passed 5-0-0.

Senator Bakke moved an amendment to insert the word "knowingly" on page 2, line 1, letter H between the words individual and taught, seconded by Senator Taylor.

Chairman Freborg asked how difficult is it to prove knowingly?

Senator Taylor explained his previous experience with the word "knowingly" in code.

Senator Flakoll asked if a teacher comes from out of state, does ESPB have to approve them before they can teach?

Senator Bakke said yes, they have to apply for a license so they would be told by the board if they were not qualified. If the administrator doesn't check the license it could get by them.

Chairman Freborg said he is changing his mind on the bill, everybody knows what is going on, they know their qualifications, both the administrators and the teachers. ESPB ought to be implementing that section of law that says they can not approve the school.

Senator Bakke said right now they can't do anything, their hands are tied. They have people who are asking what are they going to do about it?

Chairman Freborg said they can not approve the school.

Senator Bakke said that is right but they can't do anything to the teacher or the administrator.

Chairman Freborg said if they don't approve the school, that administrator would get rid of those teachers quickly.

Senator Bakke said she is concerned they may close one school but the teacher could go to another school. You need to pull the teacher's license at that point.

Chairman Freborg said it is against the law now.

Senator Bakke said it is but ESPB has no recourse now.

Senator Gary Lee said it seems like in subsection 1, everything is there, and they can suspend, revoke the license, and issue warnings. If the school doesn't do something about it, DPI can take their accreditation away. It's another one of those fine tuning things.

The motion passed 3-2.

Senator Bakke moved a Do Pass as Amended on SB 2287, seconded by Senator Taylor. The motion passed 3 – 2. Senator Bakke will carry the bill.

PROPOSED AMENDMENTS TO SENATE BILL 2287

Page 2, line 2, after "and" insert "knowingly"

*adopted 2/5/07
5-0*

*Fialkov amnt -
2/5/07*

PROPOSED AMENDMENTS TO SENATE BILL 2287

Page 1, line 2, replace "declare an" with "provide an effective date."

Page 1, remove line 3.

~~Page 2, line 2, after "and" insert "knowingly"~~

Page 2, replace line 7 with "**SECTION 2. EFFECTIVE DATE.** This act becomes effective on August 1, 2007."

Adopted 2/5/07
5-6

Date: 2/5/07
Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2287

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendment

Motion Made By Sen. Flakoll Seconded By Sen. Taylor

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	✓	
Senator Flakoll	✓		Senator Bakke	✓	
Senator Gary Lee	✓				


Total Yes 5 No 0

Absent 0

Floor Assignment _____

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

*pg. 2 line 7 overstrike entire line
add: effective date August, 2007.*



2-5-7

PROPOSED AMENDMENTS TO SENATE BILL NO. 2287

Page 1, line 2, replace "; and to declare an" with a period

Page 1, remove line 3

Page 2, line 1, after "individual" insert "knowingly"

Page 2, line 2, after "and" insert "knowingly"

Page 2, remove line 7

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2287: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2287 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "; and to declare an" with a period

Page 1, remove line 3

Page 2, line 1, after "individual" insert "knowingly"

Page 2, line 2, after "and" insert "knowingly"

Page 2, remove line 7

Renumber accordingly

2007 HOUSE EDUCATION

SB 2287

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2287

House Education Committee

Check here for Conference Committee

Hearing Date: **6 March 2007**

Recorder Job Number: **4438**

Committee Clerk Signature

Jan Prindle

Minutes:

NOTE for the Record: Throughout this hearing there was a great deal of humming, clanking and other unsavory noises coming from the HVAC system. Anyone listening to these tapes may have difficulty.

Chairman Kelsch opened the hearing of SB 2287.

Senator JoNell Bakke, District 43, introduced the bill. (Testimony Attached.)

Janet Welk, executive director of the Education Standards and Practices Board, testified in support of the bill. (Testimony Attached.)

Representative Herbel: "Knowingly" is that going to be difficult to prove?

Welk: On every teacher's license it indicates what they are qualified to teach. There are supposed to have that license on file with the business manager. I would say that any teacher who has their license on file with the business manager, knows what they are teach and the administrator that is placing them in the classroom also would know what they are qualified to teach.

Representative Wall: On line 15, item c "The individual is incompetent, immoral, intemperate, or cruel." What does that have to do with highly qualified?

Welk: This is language that has been in law for absolutely years. We do use it now and then.

Representative Mueller: How can you get into a system if you have the credentials and degrees required? How can you trick the system if you fall into this categorization?

Welk: The cases that we have seen this year there was no trickery. It was the teacher indicating that the administrator knowingly placed them there and they weren't qualified. In a couple of cases, the teacher knew they were not qualified to teach. One has since resigned, a couple of others have been removed from the classroom, but we still have about 26 teachers that are not qualified in classrooms. It is the intent of the board that we have this law be basically a buffer for both the administrator and the teachers saying it is definitely against the law, I cannot teach that class.

Representative Herbel: As far as the penalty is concerned, I can see where it allows you the warning, or the reprimand, or the license revocation. Does it also do the same thing for the administrator?

Welk: That is correct.

Representative Wall: The 26 teachers right now who are not qualified and in the classroom, does current law have no teeth to do anything about it?

Welk: That's exactly correct.

Representative Hunskor: Do you envision that in most cases depending upon the severity there would be a warning for approximately 6 weeks, or 6 months? What thoughts do you have there?

Welk: I am not speaking for the board; but personally if someone is in the classroom without a license there is no leeway and they are fined. I would assume they would handle these cases the same way.

Anita Decker, director of School Approval and Accreditation for the DPI, testified in favor of the bill. (Testimony Attached.)

Representative Karls: Is there ever a situation in a school where someone goes on leave and another teacher needs to fill in, does this allow for that.

Decker: Yes, substitute teachers are frequently hired. They are not reported to the DPI.

Gloria Lokken, ND Educational Association, testified in favor of the bill. We stand in support of 2287 as amended with the word "knowingly" included. With all the changes that we have seen in the requirements for our teachers in the last five years I think you can understand that we feel that is a safeguard for our people. There may be instances where things have changed and they have not been aware and so should not be reflected by their being reprimanded. In 99% of the cases both they and the administrators should know what the requirements are. I would also say that with the changes in highly qualified, how are we going to staff our schools with teachers. Those concerns are still there.

Doug Johnson, ND Council of Educational Leaders, testified Neutral on the bill. In its original form we were opposed to the bill and testified to that when it was introduced on the Senate side; however, with the addition of the "knowingly" we moved our position to neutral. Our concern is not currently with the hiring of those teachers. I think that has been taken care of and administrators are doing their job and making sure those teachers are highly qualified. It's for the future positions when all the flexibility rules run out for the school and they will not be able to find those teachers particularly in the smaller school districts. That might create a problem in the coming years.

Tom Six, principal, testified neutral on the bill. When flexibility runs out how will we fill position in little schools? Right now we have no problem with that. Everyone in our school is very highly qualified. I hope you look at this bill and consider the little school system. I feel that down the road it's going to hurt us.

Vice Chairman Meier: Do you have any educators in your district now that are not highly qualified?

Six: Everyone in our school system is highly qualified.

There being no further testimony, Chairman Kelsch closed the hearing of SB 2287.

Representative Herbel: I move a Do Pass.

Representative Haas: I second.

A roll call vote was taken: Yes: 13, No: 0, Absent: 0

Representative Wall will carry the bill

Date: 6 May 07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2287

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken also Pass

Motion Made By Herbel Seconded By Haas

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson	✓	
V Chairman Meier	✓		Rep Hunskor	✓	
Rep Haas	✓		Rep Mueller	✓	
Rep Herbel	✓		Rep Myxter	✓	
Rep Johnson	✓		Rep Solberg	✓	
Rep Karls	✓				
Rep Sukut	✓				
Rep Wall	✓				

Total Yes 13 No 0

Absent 0

Floor Assignment Roll

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

REPORT OF STANDING COMMITTEE (410)
March 6, 2007 12:25 p.m.

Module No: HR-42-4524
Carrier: Wall
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2287, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2287 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2287

*Same
Swen to
House*

Chairman Freborg and Members of the Senate Education Committee,

For the record, my name is JoNell Bakke. I am a senator from District 43 in Grand Forks and sponsor of SB2287. This bill is a housekeeping bill that I have been asked to sponsor on behalf of the Education Standards and Practice Board. The intent of this bill is to provide the ESPB with a course of action when teachers or administrators violate the highly qualified requirements of the Elementary and Secondary Education Act.

Then ESEA became law and we started down the road of highly qualified standards for teachers, the state overlooked putting into Century Code any authority for the ESPB Board to take when a teacher or an administrator knowingly breaks this provision of the law.

Instead of me providing further explanation of this bill at this time, I will allow Janet Welk to explain the details to you.

At this time, I will take any questions.

Thank you.



Same given to House

Education Standards and Practices Board
2718 Gateway Avenue, Suite 303
Bismarck, ND 58503-0585
(701) 328-9641 Fax (701) 328-9647
<http://www.nd.gov/espb>

Testimony on SB 2287

by
Janet Plácek Welk

Good morning, Mister Chairman and Members of the Senate Appropriations Committee. For the record, I am Janet Welk, Executive Director of the Education Standards and Practices Board and wish to testify in support of SB 2287.

SB 2287 provides the Education Standards and Practices Board the opportunity to regulate the profession of education and provide an assurance to the public that their children's teachers are qualified to teach in the classrooms where they have been placed. This bill was drafted at the request of the Assistant Attorney General.

During November, 2006, the Department of Public Instruction began processing the MIS03. DPI reported to ESPB all teachers reported teaching "out of field." ESPB reviewed filed, contacted teachers and administrators to make sure all information was correct, and found some teachers in both public and non-public schools to be teaching out of field. ESPB provided technical assistance to determine if the school qualified for the Rural Flexibility Endorsement or if the teacher qualified for the Teaching Alternative Flexibility Endorsement. These two endorsements would allow additional time to become highly qualified. If the teacher or school did not qualify for any options, their case was brought before the ESPB at the December monthly meeting.

After reviewing the current law, it was determined by the Assistant Attorney

General, ESPB did not have authority to discipline the teacher that had not taken the opportunities provided between 2002 and 2006 to become highly qualified, and continued to teach in a classroom when it had been determined they were not qualified. Because of this finding, ESPB asks for your support and passage of SB 2287.

Thank you for the opportunity to testify today and I would be happy to answer any questions. If you have questions after my testimony today, I can be reached at 328-9646 or jwelk@nd.gov.

TESTIMONY ON SB 2287
SENATE EDUCATION COMMITTEE
February 5, 2007
by Anita K. Decker, Director
School Approval and Accreditation
Department of Public Instruction
328-1718

Chairman Freborg and members of the committee:

My name is Anita Decker. I am the director of School Approval and Accreditation for the Department of Public Instruction. The Department supports SB2287, which provides recourse in cases where teachers are reported teaching classes other than those allowed by the teaching license.

The 2003 Legislature adopted new requirements for teacher licensure. The new law requires that a teacher be qualified by the Education Standards and Practices Board for the courses they teach.

Since that law passed, the Department has worked closely with the ESPB to align the teaching license with the courses schools report to us. We have alerted schools on their approval and accreditation reports that because of the statutory change "teachers may be required to complete additional course work by 2006." The ESPB has notified teachers that a new page to their license identifies the courses the teacher is qualified to teach. Each year since 2003, we have alerted new administrators during our August workshop that they need to carefully consider assigning teachers because of changes in teacher licensure.

Frankly, we were surprised this fall with the number of "flags" for teaching out of field. Many of the issues were resolved easily. The difficult ones, however, included teachers who said they knew they were teaching outside their licensure area or those that said the principal told them what they were to teach and they didn't feel they could question it. A few even challenged us, "What are you going to do about it?" knowing there was no penalty to the individual.

We are now well into the second semester of this school year. We still have nearly 100 teachers whose out-of-field teaching assignment has not been cleared up.

-over, please-

Currently, there is a threat to the school. NDCC 15.1-06-06 requires that a school be declared "not approved" if any teacher is teaching out of his or her approved field. This is a drastic measure which affects the school's finances.

We believe that the professional educators teaching or those assigning teachers should also be held accountable. That is what this bill provides.

Chairman Freborg and members of the committee, this concludes my testimony. I would be happy to answer any questions.

**TESTIMONY ON SB 2287
HOUSE EDUCATION COMMITTEE
March 6, 2007
by Anita K. Decker, Director
School Approval and Accreditation
Department of Public Instruction
328-1718**

Chairwoman Kelsch and members of the committee:

My name is Anita Decker. I am the director of School Approval and Accreditation for the Department of Public Instruction. The Department supports SB2287, which provides a penalty in cases where teachers are reported teaching classes other than those allowed by the teaching license.

The 2003 Legislature adopted new requirements for teacher licensure. The new law requires that a teacher be qualified by the Education Standards and Practices Board for the courses they teach. The ESPB offered every teacher a new copy of his or her license, the second page of which identified the courses the teacher is qualified to teach.

Since 2003, we have alerted school administrators on their annual approval and accreditation reports of the statutory change which went into effect last July. In addition, each year since 2003, we have alerted new administrators to the change during our annual New Administrators Conference in August.

When schools have completed reporting each school year, we pull several reports—one of which provides a list of teachers who are teaching courses not authorized by the teaching license they hold. Teachers who are reported teaching classes for which they are not licensed receive a letter notifying them that they have been reported teaching a class “out of field.” A copy of the letter is sent to the ESPB and to the building principal. They are given two weeks in which to correct the report. A correction nullifies any penalty to the school. Most out-of-field notices are easily cleared when the school administrator or the teacher recognizes the error and corrects the report.

However, determining whether an out-of-field teaching assignment was intentional (committed *knowingly*) seems to indicate that a teacher may not know what he or she is licensed to teach or that an administrator wouldn't know what his or her teachers are qualified to teach. With the qualifications of every teacher clearly indicated on his or her license, there should be no out-of-field assignments.

Under this bill, a penalty to the out-of-field teacher or to the administrator who makes the teaching assignment—if not cleared up within the allowed two-week period—would involve a personal penalty which may provide impetus to report accurately and timely. It holds the individual professional accountable for following state law.

Chairwoman Kelsch and members of the committee, this concludes my testimony. I would be happy to answer any questions.