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10/3/03
Date

2003 HOUSE EDUCATION

HB 1258

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2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB 1258
House Education Committee

☐ Conference Committee

Hearing Date January 22, 2003

Tape Number	Side A	Side B	Meter #
1	x		150-828
Committee Clerk Signature <i>Linda Fiechter</i>			

Minutes: Chairman Kelsch opened hearing on HB 1258

Rep. Nancy Johnson, District 37 on behalf of the NDSBA

Will allow the reorganized school districts to issue contracts upon completion of negotiations.

There is a very specific time line for reorganizing, electing a board and initiating staff reductions and entering into negotiations. But no provision that allows the contracts to be offered as soon as the negotiations are completed. If the teachers and board agree to a contract in April it is my understanding that the board can't issue a contract until July 1st. That commits the board to the offer, but the teacher is free to seek other employment or refuse the contract when it comes up in July. Leaving the board to seek replacement late in the job hunting season. It makes it extremely difficult for a small school district. Gary Thune, Legal Counsel for the NDSBA is here to give more information to you.

Gary Thune, Legal Counsel for the NDSBA, See Attached Testimony

(439) Rep. Hunsakor These contracts are issued July 1 have to be back again by August 1. They have 30 days to return them, leaving only 3 weeks before the school season starts?

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Page 2
House Education Committee
Bill/Resolution Number HB1258
Hearing Date January 22, 2003

Thune: In essence, these are not continuing contracts. I don't believe that a school board is tied to 30 days. Because they are not continuing contracts, it is a new legal entity issuing the contracts. But, certainly a reasonable amount of time would be required for teachers to receive and return the contract. It may not be 30 days, it may be 15 to 20 days, and then you would have roughly a month to find a replacement. If the negotiations had been completed prior to July 1, the school board would have the authority to issue contracts. They do not have that authority now.

Nancy Sand, NDEA, See Attached Testimony

NDEA supports this bill, and we understand and recognize the fact that current Century Code regarding the reorganization. However, we believe that there is still something else missing from it. The attached proposed amendment.

Rep. Haas (question of Thune) This would apply only to the initial year of reorganization?

Thune: Yes

Opposition - none

Closed hearing

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB 1258
Education Committee

☐ Conference Committee

Hearing Date January 28, 2003

Tape Number	Side A	Side B	Meter #
1	x		4689-5180
Committee Clerk Signature <i>Hinda Heintzen</i>			

Minutes: Chairman Kelsch opened committee work on HB 1258.

Vice Chair Johnson; NDEA didn't want it amended but we do need to have an emergency clause so that the signing can take effect before July 1 2003.

Chairman Kelsch we can amend

Rep. Hawken I move to amend HB 1258 to include an emergency clause, Rep. Sitte second.

Voice vote passed.

Rep. Haas moved a DO PASS AS AMENDED, Rep. Meier seconded. 14-0-0, Rep. Haas will carry to the floor.

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Date

30521.0101
Title.0200

Adopted by the Education Committee
January 28, 2003

VK
1/30/03

HOUSE) AMENDMENTS TO HOUSE BILL NO. 1258 HEDU 1-31-03

Page 1, line 2, after "districts" insert "; and to declare an emergency"

HOUSE AMENDMENTS TO HOUSE BILL NO. 1258 HEDU 1-31-03

Page 2, after line 22, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Page No. 1

30521.0101

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10/2/03
Date

Date: 1/28/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1258

House HOUSE EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

"Emergency clause" added

Action Taken

do Pass

Motion Made By

Hawken

Seconded By

Sette

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch					
Rep. Johnson					
Rep. Nelson					
Rep. Haas					
Rep. Hawken					
Rep. Herbel					
Rep. Meier					
Rep. Norland					
Rep. Sitte					
Rep. Hanson					
Rep. Hunsakor					
Rep. Mueller					
Rep. Solberg					
Rep. Williams					

Total (Yes) _____ No _____

Absent

roll call

Floor Assignment

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

La Costa Rickford
Operator's Signature

10/2/03
Date

Date: 1/28
Roll Call Vote #: 2

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1258

House HOUSE EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken As Pass as amended.

Motion Made By Haas Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓				
Rep. Johnson	✓				
Rep. Nelson	✓				
Rep. Haas	✓				
Rep. Hawken	✓				
Rep. Herbel	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Hanson	✓				
Rep. Hunskor	✓				
Rep. Mueller	✓				
Rep. Solberg	✓				
Rep. Williams	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Haas

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

REPORT OF STANDING COMMITTEE (410)
January 31, 2003 1:07 p.m.

Module No: HR-19-1455
Carrier: Haas
Insert LC: 30521.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1258: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1258 was placed on the Sixth order on the calendar.

Page 1, line 2, after "districts" insert "; and to declare an emergency"

Page 2, after line 22, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2003 SENATE EDUCATION

HB 1258

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. Eng. HB 1258

Senate Education Committee

☐ Conference Committee

Hearing Date 3-10-03

Tape Number	Side A	Side B	Meter #
1		x	31.8 - end
2	x		0 - 7.1
Committee Clerk Signature <i>Sandra Johnson</i>			

Minutes: CHAIRMAN FREBORG called the committee to order. Roll Call was taken with all (6) members present.

CHAIRMAN FREBORG opened the hearing on Eng. HB 1258 relating to teachers' contracts in newly reorganized districts.

Testimony in support of Eng. HB 1258:

REPRESENTATIVE NANCY JOHNSON, Dist 37, stated this bill will allow reorganized school districts to offer contracts to teachers.

GARY THUNE, ND School Boards Assn., presented testimony. (see attached). Once the negotiations are completed, the new school boards can issue contracts to the teachers, and require them to accept or reject a contract, whether it be for a returning teacher or a new teacher.

NANCY SAND, NDEA, stated they support the concept of the bill. They would suggest an amendment (see attached with copies of century code). They would like the teachers in the new

Page 2

Senate Education Committee

Bill/Resolution Number Eng. HB 1258

Hearing Date 3-10-03

district offered the same courtesy as if they were continuing in their old district which is they have a 30 day time frame to reply after March 1.

SENATOR FREBORG asked if the amendment was presented in the House. MS. SAND replied it was.

SENATOR FREBORG stated that if these teachers were treated as renewals, maybe there would be an obligation to offer a contract to every teacher involved in the reorganization.

Discussion continued on the amendment proposed by NDEA.

There was no opposition to Eng. HB 1258.

The hearing on Eng. HB 1258 was closed.

SENATOR FLAKOLL moved a DO PASS. Seconded by SENATOR COOK.

Roll Call Vote: 6 YES. 0 NO. 0 Absent. Motion Carried.

Carrier: SENATOR CHRISTENSON

Date: 3/10/03

Roll Call Vote #: /

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. *HB 1258 as engrossed*

Senate **EDUCATION**

Committee

☐ Check here for Conference Committee**Legislative Council Amendment Number**

Action Taken

Motion Made By Sen. Flaherty Seconded By Sen. Cook

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Christenson

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

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10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 10, 2003 1:11 p.m.

Module No: SR-42-4334
Carrier: Christenson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1258, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1258
was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-42-4334

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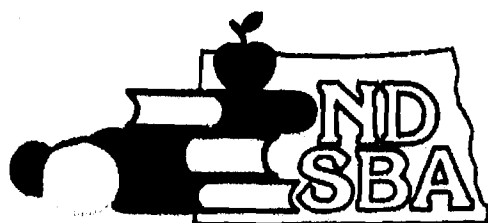
2003 TESTIMONY

HB 1258

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**NORTH DAKOTA
SCHOOL BOARDS
ASSOCIATION**
INCORPORATED

Excellence in North Dakota public education through local school board governance

**TESTIMONY BEFORE THE
HOUSE EDUCATION COMMITTEE**

HB 1258

**Gary R. Thune, Legal Counsel for NDSBA
January 22, 2003**

1. REORGANIZED SCHOOL DISTRICT BOARD - LIMITED POWERS: When two or more public school districts combine to form a new district, a new, REORGANIZED SCHOOL BOARD is elected and given limited powers including the power:

- a) To negotiate with the district's teachers [§15.1-12-15(1)];
- b) To hold public hearings on curriculum and staff positions [§15.1-12-15(2)];
- c) To notify teachers whether they will be offered a contract, by five p.m. on April 15th [15.1-12-15(3)]; and
- d) To issue bonds provided for in the reorganization plan [15.1-12-16].

2. THE PROBLEM: Current law permits a reorganized school board to contract with "the teachers' representative organization prior to the effective date of the reorganization" [§ 15.1-12-15(1)], but does not provide for offering individual contracts to returning teachers.

3. HB 1258 - ADDITIONAL POWER TO ISSUE INDIVIDUAL TEACHER CONTRACTS:

The bill now before the House simply adds to the above powers, the power to issue contracts and set a time certain when teachers must return them, once teacher negotiations have been completed prior to the completion of a reorganization. This is currently prohibited under § 15.1-12-14(2). HB 1258 would allow reorganized school boards to determine which teachers will be accepting new contracts and what vacancies will need to be filled in order to provide for an orderly commencement of classes when schools open in the fall.

The North Dakota School Boards Association Urges a Do Pass on HB 1258.

110 North Third Street • P.O. Box 2276 • Bismarck, North Dakota 58502
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www.ndsba.k12.nd.us

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Operator's Signature

10/3/03
Date



North Dakota Education Association • Box 5005 • Bismarck 58502-5005 • Phone 701-223-0450 • Fax 701-224-8535

PROPOSED AMENDMENT TO HB1258

2. Upon the completion of negotiations and the signing of a negotiated agreement under subsection 1, the board may offer contracts of employment to individual teachers who had been employed in the reorganizing districts no earlier than March 1 and establish a time certain shall allow the individual teachers thirty days from the date the contract offer is received by which the individual teachers must accept or reject the offers contract.

s:\Mag\HB1258 - Contracts

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10/3/03
Date

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by section 15.1-15-01 and meet with the individual in an executive session to discuss the reasons for the contemplated nonrenewal.

2. The individual may be accompanied by two representatives selected by the individual for the purpose of speaking on behalf of the individual and by the individual's spouse or one other family member.
3. No claim for relief for libel or slander may be brought regarding any communication made at an executive session of a school board held pursuant to this section.
4. If the board of a school district elects not to renew the contract of the individual, the board shall provide written notification of the decision, together with a detailed description of the board's reasons, to the individual no earlier than April fifteenth nor later than May first.
5. Failure by the board of a school district to provide the notification required by subsection 4 constitutes an offer to renew the individual's contract on the same terms and conditions as the individual's contract for the current year.
6. The provisions of this section are applicable only through the conclusion of the school year in which the individual was employed.

15.1-15-04. Contracts - Renewals - Notice.

1.
 - a. If the board of a school district elects not to renew the contract of a teacher, a principal, or an assistant or associate superintendent for the ensuing school year, the board shall provide written notification of the decision to the individual.
 - b. The board may not notify the individual under this section earlier than March first nor later than May first of the school year in which the individual has been employed.
 - c. The failure of a board to provide written notice under this subsection constitutes an offer to renew the individual's contract for the ensuing school year, under the same terms and conditions as the individual's current contract.
2.
 - a. No earlier than March first nor later than May first, the board of a school district shall notify each individual offered renewal of a contract of the date by which the individual must accept or reject the contract.
 - b. At least thirty calendar days must pass between the notification of each individual, as required by this subsection, and the date by which the individual must accept or reject the contract.
3.
 - a. In order to accept an offer to renew a contract, including an offer generated by the failure of a board to provide written notice as required by subsection 1, an individual shall provide written notification of acceptance to the board on or before the date required by the board or June first, whichever is earlier. An individual accepting an offer to renew a contract is entitled to a written contract for the ensuing school year.
 - b. In order to reject an offer to renew a contract, including an offer generated by the failure of a board to provide written notice as required by subsection 1, an individual shall provide written notification of rejection to the board on or before the date required by the board or June first, whichever is earlier.
 - c. If an individual fails to provide notification of acceptance or rejection of an offer to renew a contract, the board is relieved of any continuing contract provisions.

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10/3/03
Date

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4. If negotiations are being carried on pursuant to chapter 15.1-16, the provisions of this section requiring the board of a school district to give an individual notice and requiring that the individual respond to the notice are suspended until the negotiations are completed.

15.1-15-05. Contracts - Contemplated nonrenewal - Reasons - Notice.

1. If the board of a school district contemplates not renewing the contract of an individual employed as a teacher, a principal, or as an associate or assistant superintendent, the board shall, no earlier than March first nor later than April fifteenth:
 - a. Provide written notification of the contemplated nonrenewal to the individual.
 - b. Schedule a hearing to be held on or before April twenty-first for the purpose of discussing and acting upon the contemplated nonrenewal.
 - c. Provide written notification of the date, time, and place for the hearing to the individual.
 - d. Provide written notification of the reasons for the contemplated nonrenewal to the individual.
2. The reasons for the contemplated nonrenewal of the individual's contract must not be frivolous or arbitrary. The reasons must be sufficient to justify the contemplated nonrenewal and must:
 - a. Originate from specific findings documented in the report of the individual's performance required by section 15.1-15-01 and relate to the individual's ability, competence, or qualifications; or
 - b. Originate from the needs of the district in justifying a reduction in the staff.

15.1-15-06. Contracts - Contemplated nonrenewal - Hearing.

1. At the hearing required by section 15.1-15-05, the school district superintendent or a designee of the board shall present testimony or documentary evidence regarding the reasons for the contemplated nonrenewal of the individual's contract.
2. The board of the school district contemplating the nonrenewal of an individual's contract may call additional witnesses to present testimony or documentary evidence regarding the reasons for nonrenewal.
3. The individual whose contract is subject to nonrenewal may call witnesses and produce evidence necessary to refute the reasons for the nonrenewal.
4. Each witness appearing on behalf of the board of the school district or the individual whose contract is subject to nonrenewal may be questioned for the purpose of clarification.
5. The board of the school district shall review all testimony and evidence presented at the hearing and make a determination regarding the nonrenewal. If the board determines that the reasons for nonrenewal have not been substantiated, the board shall dismiss the nonrenewal proceedings.
6. Unless otherwise agreed to by the board of the school district and the individual subject to the nonrenewal, the hearing must be conducted as an executive session of the board, except that:



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**NORTH DAKOTA
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**TESTIMONY BEFORE THE
SENATE EDUCATION COMMITTEE**

HB 1258

**Gary R. Thune, Legal Counsel for NDSBA
March 8, 2003**

1. REORGANIZED SCHOOL DISTRICT BOARD - LIMITED POWERS: When two or more public school districts combine to form a new district, a new, REORGANIZED SCHOOL BOARD is elected and given limited powers including the power:

- a) To negotiate with the district's teachers [§15.1-12-15(1)];
- b) To hold public hearings on curriculum and staff positions [§15.1-12-15(2)];
- c) To notify teachers whether they will be offered a contract, by five p.m. on April 15th [§15.1-12-15(3)]; and
- d) To issue bonds provided for in the reorganization plan [§15.1-12-16].

2. THE PROBLEM: Current law permits a reorganized school board to contract with "the teachers' representative organization prior to the effective date of the reorganization" [§ 15.1-12-15(1)], but does not provide for offering individual contracts to returning teachers.

3. HB 1258 - ADDITIONAL POWER TO ISSUE INDIVIDUAL TEACHER CONTRACTS:

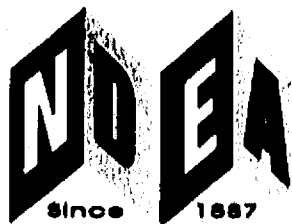
The bill now before the House simply adds to the above powers, the power to issue contracts and set a time certain when teachers must return them, once teacher negotiations have been completed prior to the completion of a reorganization. HB 1258 would allow reorganized school boards to determine which teachers will be accepting new contracts and what vacancies will need to be filled in order to provide for an orderly commencement of classes when schools open in the fall.

The North Dakota School Boards Association Urges a Do Pass on HB 1258, without amendment.

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PROPOSED AMENDMENT TO HB1258

2. Upon the completion of negotiations and the signing of a negotiated agreement under subsection 1, the board may offer contracts of employment to individual teachers who had been employed in the reorganizing districts no earlier than March 1 and shall allow the individual teachers thirty days from the date the contract offer is received by which the individual teachers must accept or reject the contract.

s:\nleg\HB1258 - Contracts

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