

2011 HOUSE EDUCATION

HB 1030

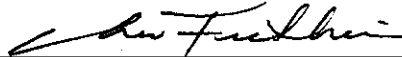
2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1030
01/10/11
12690

Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will start the hearing on HB 1030.

Anita Thomas: Testimony Attached.

Chairman RaeAnn Kelsch: Any other support of HB 1030?

Dr. Douglas Johnson – Director NDCEL: We support this bill.

Chairman RaeAnn Kelsch: Questions? Support?

Bev Nielson – School Board Association: We are in support of 1030.

Chairman RaeAnn Kelsch: Questions?

Rep. Bob Hunskor: A question I have on 73/75 for the Chair. Is that changed in the interim?

Chairman RaeAnn Kelsch: This was the change that we made during the last legislative session in the conference committee and it's clean up on that. Any further questions? Any opposition? We will close the hearing on HB 1030.

Chairman RaeAnn Kelsch: What are the wishes of the committee?

Rep. Bob Hunskor: Motion do pass.

Vice Chair Lisa Meier: I second that motion.

14 YEAS 0 NAYS 1 ABSENT

DO PASS

CARRIER: Rep. John Wall

Date: 1-10-11
 Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1030

House EDUCATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt
 Amendment

Rerefer to Appropriations Reconsider

Motion Made By REP. HUNSKOR Seconded By VICE CHAIRMAN MEIER

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunskor	X	
Rep. Heilman	X		Rep. Mock	X	
Rep. Heller	X		Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls					
Rep. Rohr	X				
Rep. Rust					
Rep. Sanford	X				
Rep. Schatz	X				
Rep. Wall	X				

Total (Yes) 14 No 0

Absent 1 Rep. Rust.

Floor Assignment Rep. Wall

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

REPORT OF STANDING COMMITTEE

HB 1030: Education Committee (Rep. R. Kelsch, Chairman) recommends **DO PASS**
(14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1030 was placed on the
Eleventh order on the calendar.

2011 SENATE EDUCATION

HB 1030

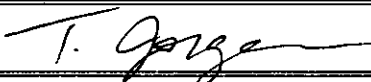
2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

HB 1030
March 29, 2011
16119

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Gubernatorial waivers of required class rescheduling.

Minutes:

See "attached testimony."

Chairman Freborg opened the hearing on HB 1030; no fiscal note attached.

Representative Monson, District 10 and Chair of the Interim Education Committee introduced the bill (#1 Testimony)

Senator Luick: Just to clarify—you mean 6 hours to equal one full day? (Yes, sorry)

Senator Heckaman: On line 11, is that where it addresses the number of days, will that be effective for the upcoming school session? **Representative Monson:** Guess it would be as the bill would go into effect on August 1st and that is before the school year starts.

Chairman Freborg: Some time back discussed, lines 16-18, regarding when the busses run late or leave early; those students are missing the same classes every time that happens. Could happen very frequently in the winter depending on the area and when the bad weather came. We have discussed that but never done anything to correct it—allowed them to put those hours together and take one day or two to make it up. **Representative Monson:** He was a principal and superintendent in a small school for many years, and in that situation of missing at a certain time of day they would rotate the schedule and work that class period in to try and make up the time missed. The teachers kept him informed if they felt a certain class was missed enough to have to make the time up in those areas.

Senator Gary Lee: The language change in subsection 1—"shall make every effort to reschedule classes so you get 175 days. Could it be less than 175 days? **Representative Monson:** Old language cleaned up; doesn't change anything. Thinks that is in there because school districts are required to have storm days in the calendar so they make every effort to get in 173 days now. If they miss a whole day because of a storm, you are supposed to use the storm day to get back up to 173 days. Might have to give up Easter Monday or a day of spring break. Thinks that is what it is referring to; been in law for quite some time. This is just a change from 173 to 175; may have something to do with the teacher's convention being brought into play now too. Might have been more than one reason why it did get changed from 173 to 175 in 2009.

Senator Flakoll: Was there any discussion on the interim committee regarding the Governor's waivers—are they ever denied very often or at all? **Representative Monson:** Talked about them, but didn't dwell on how often denied. Insinuating that they are very seldom or never denied and he would agree with that. Pretty much an automatic thing—you request them and the Governor probably does sign them. In his experience as a school administrator they always built in more storm days than was required and very seldom had to ask for a waiver. Only remember asking once or twice in all those years.

Chairman Freborg: Do they have to use the days set aside before they can make the request? **Representative Monson:** That is his understanding that you have to use the built in days first. **Chairman Freborg:** How many days? **Representative Monson:** Well, believes it is two; (Linda Paluck answered from audience—nothing required). He thought they had to because in the MISO forms when they turned in the calendar it wouldn't let them NOT put the days in the system. **Chairman Freborg:** That is not a requirement? Maybe an amendment would be appropriate to require two or three days? **Representative Monson:** Wouldn't be opposed to that; thinks it is in practice now. Think it would be prudent to do at least two days.

Linda Paluck, Director, School Improvement and Accreditation, DPI had not planned on testifying so nothing prepared but would like to answer some of your questions.

There is nothing currently in law that requires schools to set aside two days, but she knows of no school that does not considering we live in North Dakota. The waivers that you asked about—just receive very first one—request for storm day forgiveness is the waiver they fill out. Have to use built in days first, extending the day by at least 30 minutes to make up for it. They have to try all these other measures and when it is all exhausted then they come and fill out a waiver. If they were to fill out a waiver in January for forgiveness of school days, she would reply back to them that they still have these other options. In 2009 they were sending in waivers in January, and they still had time to extend the school day, change their class periods. When the flood came and schools were sending applications for storm day forgiveness, their options were running out. Unless they wanted to go to school on Saturday or have school after graduation there wasn't much left to do. DPI would look at that and would fill out a response back to them; after that it is sent to the Governor for his approval. There were 115 districts apply, the highest being Valley City with 17 days with sewer problem, etc., and the Governor only rejected one. A total of 315 days overall requested and 314 approved.

Last year the only problem they had was with the power lines down in the south central part of the state; 2009 was huge and last year hardly any. This year only one so far. Yes, they do have to use up their storm days first. What they recommend is to put the two days at the end of the year—not in the fall so there is time to use them still. Another thing for an option is that the minimum requirement for them to have school each day is 5.5 hours for elementary and 6 hours for secondary. Many of the schools already have 6.5 hours for the secondary and 6 hours for the elementary. They've already got it built into the calendar to go above and beyond the amount of time. When you add up all those 30 minutes it would give them another 6 hour day. One grace day for that time.

Chairman Freborg: The problem with that 30 minutes extra is the same class again. So you forgive a whole day when this same class lost several days in that extra 30 minutes. Thinks it is commendable that they have a longer school day but doesn't think it works out well for the students missing those days. **Linda Paluck:** Tend to agree with that, and asked some of the high schools if they have a certain class always at the end of the day, what are you doing with it. Some schools do rotate classes and the teachers do say they need to get the time in by the end of the year and request the time for that class. Doesn't know what it looks like in every single school.

Senator Heckaman: Has worked in a number of schools and all of them do the rotation of the schedule. Most schools have a variety of schedules to make the time up—shortened or extended class periods, rotated classes around, add the class to the end of the day.

Senator Schaible: You have to go 30 minutes longer? **Linda Paluck:** Yes, minimum.

Doug Johnson, North Dakota Council of Educational Leaders supports the bill; he worked with DPI to make the changes to this. It is just doing what many schools currently practice. The rotating schedules—he was a principal in a large middle school for many years and the teachers wanted it made up if their class was missed too frequently. Had several different kinds of schedules so they could make sure the students did not miss too much of any class period. Has not polled the superintendents and principals in the state, but am sure they are going to get the same kind of pressures he got when that would happen with a pep rally or whatever is going on.

Bev Nielson, North Dakota School Boards Association supports the bill. Just a comment that the 175 days is just changed in here because last session we said as of 2001-2012 the number of days would increase. The real purpose of this bill is just to take care of the Governor's waiver part that said he could not do less than a full day, and wanted to make it clear that they could add those hours together to come to a full day. Understand that it is the practice going on anyway. Just one comment about the potential for requiring they have two storm days in their calendars—would ask if you do that the effective date not be before July 1, 2012 because next year's calendars are set already.

No further testimony in support; no opposition. Hearing closed.

Senator Luick: Understand it this take us back to be prior to a few years ago when the option of adding up hourly losses during the day; is that correct? **Chairman Freborg:** When we required so many hours in a day, so many days in a year, that requirement passed in one session and immediately in the next session legislation started to erode the days; not sure about the hours. We are almost back to where we were before the requirement in so many hours a day. Thinks 175 full days of instruction is excellent, so it probably isn't so bad when they are forgiven some days. Don't think they set aside days years ago as storm days; everything was forgiven and there were schools missing so much time that . . .

Senator Flakoll: The only thing requested was to have two days built into the calendar for storm days; without any requirement that they be after January 1st or anything like that, or emergency clause or effective date. **Chairman Freborg:** How does the committee feel

about if there is an emergency clause on the bill and if signed sometime in April—would that be a hardship on the schools to – is it too late to get into the calendar for the next school year? **Senator Heckaman:** Thinks a lot of the calendars have been completed already because they are done about the same time that contracts come out so staff know beginning days, ending days, holidays, etc. to plan family events for next year. Usually involves other spouses that have to request days off from their work and would guess that most calendars are pretty well developed already. Think it varies by school district, no real set time, but knows that input in her schools has probably been done by now. Not real strong on an amendment to require days because there probably aren't any schools that have them anymore. Don't think any schools are shirking their duty on the number of days, and maybe the hours are adjusted around a little bit more than the days are. Thinks the schools are very conscientious out there. The teachers are very up on making sure they get their required hours in for classes.

Senator Schaible: Calendars usually done in March or April, so discuss a month before. There are several processes to change them; by a vote so not a big deal. Most schools already included it so doesn't affect a large amount of schools since already being done.

Senator Luick: Was going to address the same issue; the days are already into his school district calendar and they approved that at the last meeting and the days are there so not a big issue.

Senator Flakoll: Would like the committee reaction to saying at least one of those days has to be between January 1st and June 1st of each year. There was some talk about school districts putting the dates too early in the year and not after the winter weather has passed. **Senator Heckaman:** Guess she doesn't see them doing that in the fall; think most of them happen around the time of their Class sporting event and then in the spring around Easter. Have never seen one put a storm day in the fall.

Senator Schaible: Not a problem if you put the dates in there; schools should be responsible to set their own dates. If they have the wrong timing for their dates and can't use them it would be nice if the Governor would deny their request and it would solve the problem.

Senator Heckaman: All seem to be doing it anyway; will move a Do Pass on HB 1030; second by **Senator Marchellais**. Motion carried 7-0-0; **Senator Schaible** will carry the bill.

Date: 3/29/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1030

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Schaible

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

REPORT OF STANDING COMMITTEE

HB 1030: Education Committee (Sen. Freborg, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1030 was placed on the
Fourteenth order on the calendar.

2011 TESTIMONY

HB 1030

HOUSE BILL NO. 1030
Anita Thomas
01/10/11

Current law provides that if because of severe weather or other emergencies a school or school district remains closed or provides less than a full day of instruction, every effort must be made to reschedule the classes so that students receive their statutorily required number of days. (174/181 for 2010-11)

If however doing this would create "undue hardship," the Governor can be asked to waive the rescheduling of classes in whole or in part.

Current law also provides that the governor may not grant a waiver for less than a full day of instruction.

Taken literally, this would mean that if the buses are sent home two hours early on a Monday, the Governor could not waive the rescheduling of those two hours.

What has happened in practice is that if the buses are sent home two hours early on Monday February 7th, and two hours early on Tuesday, March 1st, and two hours early on Wednesday April 6th, those three two hour periods are being added together to form a "whole" day and that day is then being waived.

The interim committee was told that whichever way the waivers ought to work is a matter of policy. However, the interim committee was also told that the current interpretation applied by the Governor's office and the DPI was of questionable accuracy, given both the words and the original intent of the statute.

It is important that statutes accurately reflect the intent of the Legislative Assembly and equally important that all who are governed by that statute accurately interpret it and administer it.

The interim committee, with relatively little discussion, determined that the safety of students and employees was of paramount importance. They believed that local school officials were in the best position to assess local weather conditions and that their professionalism could be and should be relied upon in any decisions governing the starting and stopping times of schools.

The interim committee therefore concluded that if schools needed to start late or close early because of weather issues, those segments of days -- those two hour periods that I used an example, should be added together to form whole days. Because this was already current practice in the Governor's office and in the DPI, the interim committee asked that the statute be changed to accurately reflect that practice.

L. Anita Thomas, J.D., LL.M.
(701) 328-2916

Representative Monson, District 10

HB 1030 – Interim Education Committee bill

All this bill does is put into code what is being done in practice—which is to allow a public school district to add hours missed for partial days of school closing together to make full days of instruction for waiver purposes. It also increases by two the number of student contact days in a school year from 173 to 175 days.

#1